



Writ Petition No.22012 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2023

C O R A M

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition No.22012 of 2023

and

W.M.P.Nos.21378 & 21379 of 2023

M/s.Promptech Engineering Syndicate
represented by its Proprietor K.Shakthivel
No.5/2A, Srinidhi Garden,
Eachanari to Madukkarai Road,
Madhukarai Post,
Coimbatore - 641 105.

... Petitioner

Vs.

- 1.The Commissioner of Central Excise,
No.6/7, A.T.D. Street,
Race Course Road, Coimbatore - 641 018.
- 2.The Deputy Commissioner of CGST &
Central Excise,
Coimbatore III Division,
No.1441, Elgi Building, Trichy Road,
Coimbatore - 641 018.
- 3.The Superintendent of Central Excise,
Customs & Service Tax,
CBE III 'E' RANGE,
No.9/4, Tamanujam Nagar,
B.K.Pudur, Coimbatore - 641 008.
- 4.The Inspector Central Excise,



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CBE III 'E' RANGE,
No.9/4, Tamanujam Nagar,
B.K.Pudur, Coimbatore - 641 008.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for entire records in pursuant to the notice of attachment issued by the second respondent vide C.No.V/02/18/2013-Arrears dated 21.03.2017 and attachment of immovable property vide panchanama dated 24.03.2017 issued by the respondents 3 and 4 attaching the petitioner's property comprised of factory land and building bearing No.139/11-E at Site No.19, SF No.20, 11E1, Madukkarai Market Road, SIDCO Industrial Estate, Post Kurichi, 3rd Grade Municipality, Sundarapuram, Coimbatore Taluk & District and quash the same.

For Petitioner : Mr.T.P.Prabakaran
for Mr.N.Sankara Sabari

For Respondents : Mr.A.P.Srinivas,
Senior Standing Counsel

ORDER

This Writ Petition has been filed challenging the notice of attachment order issued by the second respondent dated 21.03.2017 and attachment of immovable property *vide* panchanama dated 24.03.2017.



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2. Heard Mr.T.P.Prabakaran, learned counsel for petitioner and Mr.A.P.Srinivas, learned Senior Standing Counsel appearing for respondents.

3. The case of the petitioner is that the third respondent issued a letter dated 12.05.2016 stating that the petitioner has violated Rule 8(3A) of the Central Excise Rules, 2002 and the petitioner has wrongly utilized CENVAT credit and hence, the petitioner is liable to pay this amount in cash as per Rule 8(3A) of the Central Excise Rules, 2002. Subsequent to the aforementioned letter, the second respondent issued a notice of attachment dated 21.03.2017 and followed by the same, respondents 3 and 4 issued panchanama dated 24.03.2017 attaching petitioner's properties.

4. Learned counsel for petitioner submitted that the main grievance of the petitioner is that the CENVAT credit was disallowed by invoking Rule 8(3A) of the Central Excise Rules, 2002. The petitioner's contention is that Rule 8(3A) of the Central Excise Rules, 2002, is not applicable to the petitioner's case and therefore, the department is not entitled to



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disallow CENVAT credit, which is available to the petitioner. Explaining the legal position as to how Rule 8(3A) of the Central Excise Rules, 2002, will not be applicable and for other reliefs, petitioner had sent a representation dated 08.03.2023 to the second respondent.

5. Learned counsel for petitioner would submit that though the petitioner has challenged the notice of attachment and subsequent orders, it would suffice if a direction is issued to the second respondent to dispose of the petitioner's representation dated 08.03.2023.

6. Mr.A.P.Srinivas, learned Senior Standing Counsel appearing for respondents also submitted that if the petitioner's representation dated 08.03.2023 is disposed of, the grievance of the petitioner will be redressed.

7. Considering the aforesaid submission, this Court, without going into the merits of the case, directs the second respondent to consider the petitioner's representation dated 08.03.2023 and pass appropriate orders on merits and in accordance with law, within a period of thirty (30) days from the date of receipt of a copy of this order .



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This writ petition is disposed of with the above direction. No costs.

Consequently, connected miscellaneous petitions are closed.

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gm

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KRISHNAN RAMASAMY, J

gm

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