



W.P.(MD) No.14027 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.14027 of 2021

and

W.M.P.(MD) Nos.11017 of 2021 & 11032 of 2022

1.P.Karunakaran

2.P.Senthilkumar

3.P.Sureshbabu

... Petitioners

Vs.

1.The District Collector,
Madurai District, Madurai.

2.The Central Excise Officer, (Kalal)
Madurai South Central Excise Office,
Madurai.

3.The Assistant Commissioner
for Central Excise,
Assistant Commissioner Office,
Collectorate Building, Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari calling for the records of the 2nd respondent in respect of the proceedings in ந.க.எண்.13567/1981/ஆ dated 08.11.2019 and quash the same.



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For Petitioners : Mr.C.Jawahar Ravindran

For Respondents : Mr.A.Sivanupandian
Government Advocate

ORDER

The petitioners have challenged the impugned proceedings of the second respondent dated 08.11.2019 bearing reference Na.Ka.No. 13567/1981/Aa.

2. It is the case of the petitioners that the father of the petitioners had participated in an auction conducted for lease of the arrack shop in 1981 and has become a successful bidder. However, he failed to pay the auction amount. It is submitted that the petitioners' father died on 14.09.1991.

3. It is further submitted that long after the petitioners' father died, the respondents woke up from the slumber and started demanding amount from the petitioners stating that a sum of Rs.44,500/- was due from the petitioners' father which the petitioners agreed to pay at Rs.1,000/- per month. It is further submitted that the petitioners have paid a sum of Rs. 42,400/- till May 2015. In the meanwhile, the respondents demanded a



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further sum of Rs.2,44,400/- towards interest which was also paid by the petitioners on 18.06.2015.

4. It is further submitted that after the petitioners paid the aforesaid amount, the respondents have started demanding a further sum of Rs. 10,14,535/- towards interest on account of delayed payment of the aforesaid amount *vide* communication dated 07.06.2016 bearing reference Na.Ka.No.13567/1981, to which, the petitioners replied on 14.09.2016. Despite receipt of the same, the respondents have issued impugned notice dated 08.11.2019 and have demanded a further amount of Rs.10,25,412/-.

5. The learned Government Advocate for the respondents would submit that the Government has issued G.O.Ms.No.81 Prohibition and Excise Department dated 05.04.2004, wherein, the rate of interest to be recovered on the amount due to the State Government under the provisions of the Tamil Nadu Prohibition Act, 1937 has been prescribed at the rate of 12% per annum and the said order was deemed to have come into force with effect from 12.05.1981. Therefore, the impugned notice was issued to the petitioners demanding the aforesaid amount of Rs. 10,25,412/-.



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5. It is submitted that since several properties were registered in the name of Petitioners, the writ off proposals were shelved and the notices were sent to the 2nd and 3rd Petitioners herein to remit a sum of Rs.2,86,800/- vide Roc. No. 13567/1981 dated 28.04.2008, 13.08.2009, 18.08.2009 and 26.10.2009 by informing the Petitioners that unless the amount is remitted distraint proceedings shall be initiated. The 2nd and 3rd Petitioners were directed to appear before the 3rd respondent on 19.01.2010 vide Letter No. 13567/1981 dated 08.01.2010. Accordingly, they appeared before the 3rd Respondent and expressed their inability to remit the entire amount, however, they sought for permission to remit Rs.1000/- before 5th every month and gave a statement to that effect. Hence they were directed to remit Rs.1000/- every month before 5th of each month vide Roc. 13567/1981 dated 05.05.2020. But they have paid only a sum of Rs.17100/-until the month of April, 2013. Hence a notice was issued to them vide Roc. 13567/1981 dated 26.08.2013 directing them to remit the amount and another reminder dated 20.11.2013 and 29.11.2013 was also issued to them to immediately pay the notional loss caused by their father failing which they were informed that action will be initiated under the Revenue Recovery Act to recover the said amount as though the same is an arrear under land revenue.



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7. It is therefore submitted that there are no merits in the present

Writ Petition and this Writ Petition is liable to be dismissed.

8. I have considered the arguments advanced by the learned counsel for the petitioners and the learned Government Advocate for the respondents.

9. In my view, there is no justification in demanding further amount from the petitioners towards interest on the amount that was allegedly due from the petitioners' father (since deceased) from the year 1981 pursuant to the tender that was awarded to him for lease of the arrack shop.

10. The respondents have also not identified the estate of the petitioners' father for recovery of alleged arrears from the petitioners' father. That apart, there is no denial by the respondents that the petitioners have paid a sum of Rs.42,400.00 + Rs.2,44,400.00 as was demanded by them in the year 2015.

11. There is also no justification in demanding further amount of Rs.10,25,412 towards interest at the rate of 12% per annum from the



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petitioners for the periods between 1981 to 2015. Therefore, the impugned demand notice dated dated 08.11.2019 bearing reference Na.Ka.No.13567/1981/Aa is set aside.

12. Accordingly, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

08.04.2024

Index: Yes / No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

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Copy To:

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C.SARAVANAN, J.

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