(2012) 03 P&H CK 0178

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 4754 of 2012

M/s K.S. Enterprises APPELLANT

Vs

Commissioner Central Excise RESPONDENT

Date of Decision : 15-03-2012

Acts Referred:

Customs (Attachment of Property of Defaulters for Recovery of Government Dues) Rules, 1995 — Rule 10, 235, 5, 9
Customs Act, 1962 — Section 11

Citation : (2012) 193 ECR 28

Hon'ble Judges : M.M. Kumar, J;Alok Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—The prayer made in the instant petition is for quashing notice of demand dated 6.2.2012 (P.5) issued by the Assistant Commissioner Central Excise and order dated 23.2.2012 (P.7) passed by the Assistant Commissioner Central Excise Division No. II, Faridabad under Rules 5, 9 and 10 of the Customs (Attachment of Property of Defaulters for Recovery of Government Dues) Rules, 1995 (for brevity ''the Rules''). A further prayer has also been made for quashing order dated 6.3.2012 (P.8) attaching the house property of Sohan Narula situated at H.No. 311 EWS, Sector 22, Housing Board Colony, Faridabad. The petitioner has been found liable to pay central excise duty amounting to Rs. 17,52,005/- and equal amount of penalty imposed u/s 11 AC of the Customs Act, 1962 alongwith penalty under Rule 235 amounting to Rs. 5,00,000/- . The amount works out to be more than Rs. 40,00,000/- as per the notice dated 5.9.2011 issued by the respondents. The petitioner has deposited only a sum of Rs. 50,000/- and have requested the respondents to permit him to deposit the due amount in instalment of Rs. 50,000/- per month (P.2). The first instalment has been deposited by the petitioner in the account maintained with the State Bank of India, Faridabad Main Branch. On the failure of the petitioner to deposit the amount a demand notice was issued on 6.12.2011 (P.5) which has been resisted by the petitioner by addressing letter dated 11.2.2012 (P.6). When the petitioner failed to pay the amount due, the respondents issued an order dated 23.2.2012 (P.7) under the seal of the Assistant Commissioner Central Excise Division II, Faridabad by invoking the provisions of Rules 5, 9 and 10 of the Rules. Similarly order has been issued on 6.3. 2012 in respect of another property (P.8). The petitioner has filed objections to those attachments on 7.3.2012 (P.9). We have heard learned counsel at some length.

2. The dues in lieu of the Central Excise have been overdue and the petitioner has not been able to pay the same. The necessary consequence would be to recover the dues by attaching the property of the petitioner. All the orders of recovery have attained finality and eventually coercive steps have to be taken by the respondent by issuing various orders for attaching house property. There is nothing on the record nor any offer has been made by the petitioner through his counsel to establish their bona-fide to meet the huge liability. Therefore, we are of the view that in the absence of any offer to establish bona-fide of the petitioner, the dues of the Government have to be recovered by adopting the procedure established by law. There is no infirmity in the aforesaid notices of recovery. The petition is wholly without merit. Dismissed.