

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

WP(C).No. 12140 of 2015 (N)

PETITIONER(S):

**SUNITHA JOY,
2418(15/172), SOUHRIDAM EDANJIMoola, PERUMKUZHY,
THIRUVANANTHAPURAM.**

**BY ADVS.SRI.G.JAYAPRAKASH
SMT.MANJU RAJAN
SMT.P.V.REMA**

RESPONDENT(S):

- 1. THE SENIOR DIVISIONAL COMMERCIAL MANAGER,
TRIVANDUREM DIVISION, SOUTHERN RAILWAY,
THIRUVANANTHAPURAM 695 014.**
- 2. DIVISIONAL RAILWAY MANAGER,
TRIVANDURM DIVISION,
SOUTHERN RAILWAY, THIRUVANANTHAPURAM 695 014.**
- 3. GENERAL MANAGER,
SOUTHERN RAILWAY, CHENNAI-600 029.**
- 4. THE CHAIRMAN,
RAILWAY BOARD, RAIL BHAVAN, NEW DELHI-110 001.**
- 5. THE COMMISSIONER, CUSTOMS,
CENTRAL EXCISE & SERVICE TAX ICE BHAVAN,
PRESS CLUB ROAD, THIRUVANANTHAPURAM 695 001.**
- 6. THE SUPERINTENDENT,
SERVICE TAX, GROUP C, I.C.E BHAVAN,
PRESS CLUB ROAD, THIRUVANANTHAPURAM 695 001.**

**R1-R4 BY ADV. SRI.C.S.DIAS,SC, RAILWAYS
R5&6 BY ADV. SRI.JOHN VARGHESE, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 TRUE COPY OF LETTER NO V/C.300/VP/TVC 2ND ENTRY 2013 DATED 16/12/2013
- EXT.P2 TRUE COPY AGREEMENT DT. 03.04.2014 ENTERED INTO WITH RAILWAYS FOR THE PURPOSE OF GRANTING LICENCE OF VEHICLE PARKING STAND.
- EXT.P3 TRUE COPY OF THE LETTER NO 2004/TG-IV/39/24/SERVICE TAX PT III DATED 26/09/2012 ISSUED TO ALL THE GENERAL MANAGERS, INDIAN RAILWAYS
- EXT.P4 TRUE COPY OF THE NOTIFICATION 3/2013 -ST DATED 1.3.2013
- EXT.P5 TRUE COPY REPRESENTATION BEFORE THE SENIOR DIVISIONAL COMMERCIAL MANAGER, SOUTHERN RAILWAY, THIRUVANANTHAPURAM VIDE LETTER DATED 28TH APRIL, 2014
- EXT.P6 TRUE COPY OF LETTER DATED 28/03/2014 OF THE SUPERINTENDENT, SERVICE TAX, GROUP C,I.C.BHAVAN , THIRUVANANTHAPURAM 695
- EXT.P7 TRUE COPY OF LETTER DATED 17/03/2015 ADDRESSED TO SENIOR DIVISIONAL COMMERCIAL MANAGER, SOUTHERN RAILWAY, THIRUVANANTHAPURAM ALONG WITH LETTER DT, 14.02.2014 ADDRESSED TO SRI. SAJITH D'CRUZ.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.12140 of 2015

Dated this the 9th day of July, 2015

JUDGMENT

The petitioner, a licensee for the purpose of vehicle parking at Trivandrum Central Railway Station 2nd entry, feeling aggrieved by non-consideration of the request for permitting her to collect service tax from the consumer/customer parking the vehicle at parking ground, has approached this Court.

2. The petitioner has been awarded the contract for two years with effect from 5.12.2013 as per the terms and conditions in the licence agreement dated 3.4.2014. The petitioner's case is that the service tax is being an indirect tax, he is entitled to **pass it** over to the customers to discharge the liability. Therefore, she is entitled to collect service tax from the customers. However, on account of want of permission from the Railway Authorities, they are unable to collect rent from the customers.

3. The petitioner's grievance has been highlighted by Ext.P7 before the Senior Divisional Commercial Manager, Southern Railway, Thiruvananthapuram.

4. In view of the facts and circumstances, I am of the view, urgent decision is required in this matter from the Senior Divisional Commercial Manager, Southern Railway. Therefore, there shall be a direction to the Senior Divisional Commercial Manager, Southern Railway, Thiruvananthapuram to consider and take appropriate decision on Ext.P6 after hearing the petitioner within three weeks from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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