In the High Court of Judicature at Madras

Dated : 07.8.2015

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

and

The Honourable Mr.Justice T.MATHIVANAN

Civil Miscellaneous Appeal Nos.1494 to 1496 of 2015
and M.P.Nos.1 & 1 of 2015

The Sathyamangalam Agricultural
Producers Coop. Marketing Society
Ltd., AA 301, Sathyamangalam,
Erode-638402. ...Appellant in CMA.1494/2015

The Mettupalayam Agricultural Producers
Cooperative Marketing Society Ltd.
(No.K-913), Mettupalayam-641302. ...Appellant in CMA.1495/2015

Gobichettipalayam Agricultural Producers
Cooperative Marketing Society Ltd.
K544, Gobichettipalayam-638476. ...Appellant in CMA.1496/2015

Vs

1.The Customs, Excise & Service Tax
Appellate Tribunal, South Zonal
Bench, No.26, Shastri Bhavan,
Haddows Road, Chennai-6.

2.The Commissioner of Central
Excise, Salem. ...Respondents in all the appeals

APPEALS under Section 130 of the Customs Act, 1962 against the common final order Nos.40578 to 40580/2014 on the file of the Customs, Excise and Service Tax Appellate Tribunal, Chennai-6 dated 11.8.2014.

For Appellants : Mr.S.V.Ramamurthy
For Respondent-2 : Mr.V.Sundareswaran, Senior Panel Counsel

COMMON JUDGMENT
(Judgment was delivered by V.RAMASUBRAMANIAN,J)

These appeals are filed by three different cooperative marketing societies, challenging a common order passed by the Customs Excise and Service Tax Appellate Tribunal refusing to condone the delay of 215 days, 215 days and 310 days in filing the statutory appeals.

2. Heard Mr.S.V.Ramamurthy, learned counsel for the appellants and Mr.V.Sundareswaran, learned Senior Panel Counsel for the respondents.

3. The appellants in these appeals are agricultural producers cooperative marketing societies. They are established under the Tamil Nadu Cooperative Societies Act and they function as nodal agencies, within the control of the State Agricultural Marketing Board, in terms of the Tamil Nadu Agricultural Produce Marketing (Regulations) Act, 1987 and the Rules framed therein.

4. On the basis of the information gathered through Intelligence, show cause notices were issued to the appellants, claiming that the appellants were rendering services as auctioneers of the agricultural produce and that

therefore, the activities carried out by the appellants attracted service tax.

5. Though the appellants opposed the show cause notices, Orders in Original were passed, levying service tax. The appeals filed by the appellants to the Commissioner of Central Excise (Appeals), were also rejected by separate orders dated 22.3.2013, 21.3.2013 and 23.11.2012. As against the orders passed by the Appellate Commissioner, the appellants filed further appals before the Customs, Excise and Service Tax Appellate Tribunal. But, in doing so, a delay had occasioned in filing each of the appeals. Therefore, the appellants filed necessary applications for condonation of delay. Those applications were rejected by the Tribunal by an order dated 11.8.2014 on the ground that the delay was not properly explained. Aggrieved by the rejection of their applications for condonation of delay, the appellants are before us.

6. A careful perusal of the affidavits filed by the appellants in support of the applications for condonation of delay would show that the delay had in fact been properly explained with genuine reasons. It is common knowledge that elections to cooperative societies become a huge and acrimonious affair in the State of Tamil Nadu. Every time elections are held, the elections become the subject matter of challenge before courts and eventually, special officers get appointed in many cases.

7. Therefore, the cause of the cooperative societies actually becomes nobody's child. In such circumstances, the Tribunal ought to have taken a

pragmatic view. The appellants also appear to have a good case on merits. The auction conducted by them of the agricultural produce, harvested by their own members, may not really be a service rendered by them. These societies are established for the purpose of enabling the farmers to market their agricultural produce in such a manner that the farmers are not exploited by middle men. In such circumstances, the question as to whether the services rendered by these societies to their own members would attract service tax, is an important issue. Eventually, any levy made upon these societies will offset the benefit that is sought to be conferred upon the farmers by legislation. Therefore, the Tribunal ought to have taken a practical view in such matters.

8. In view of the above, the appeals are allowed, the common order of the Tribunal is set aside and the matter remitted back to the Tribunal. The Tribunal shall take up the appeals for disposal and dispose of them within a period of three months. No costs. Consequently, the above MPs are closed.

07.8.2015

Internet : Yes

To
1.The Customs, Excise & Service Tax Appellate Tribunal, South Zonal Bench, No.26, Shastri Bhavan, Haddows Road, Chennai-6.
2.The Commissioner of Central Excise, Salem.

RS

V.RAMASUBRAMANIAN,J
AND
T.MATHIVANAN,J

RS

CMA(NPD)Nos.1494 to 1496/2015
and MP.Nos.1 and 1 of 2015

07.8.2015