

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2015

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

Writ Petition No.3033 of 2015
and
M.P.No.1 of 2015

Kancheepuram Special Grade Municipality
represented by its Commissioner,
Kancheepuram.

...Petitioner

vs.

1. The Additional Commissioner of Central Excise III,
26/1, Mahatma Gandhi Road,
Nungambakkam,
Chennai - 600 034.
2. The Manager,
Punjab National Bank,
Kancheepuram - 631 501.
3. The Manager,
State Bank of India,
Kancheepuram - 631 501.
4. Superintendent of Central Excise,
Kancheepuram Range,
26/7, First Floor, Madam Street,
Kancheepuram - 631 501.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari and Mandamus calling for the records of the first respondent in order in Original No.04/2013 (ST) dated 17.07.2013 and the consequential proceedings of the fourth respondent in O.C.No.51/2015 & O.C.No.52/2015 dated 29.01.2015 and quash the same and consequently forbear the first respondent from in any manner enforcing the levy of service tax on the Petitioner Municipality prior to 2013-2014.

For Petitioner : Mr.P.Srinivas
For Respondents : Mr.T.Chandrasekar [R1 & R4]
No appearance [R2 & R3]

O R D E R

The petitioner has come forward with the present writ petition challenging the order of the first respondent passed in Original No.04/2013 (ST) dated 17.07.2013 and the consequential proceedings of the fourth respondent in O.C.No.51/2015 & O.C.No.52/2015 dated 29.01.2015 and seeks a direction to forbear the first respondent from in any manner enforcing the levy of service tax on the Petitioner Municipality prior to 2013-2014.

2. Heard learned counsel for the petitioner and learned counsel for respondents 1 and 4.

3. At the time of hearing, the learned counsel for petitioner submitted that the petitioner is willing to pay the entire amount in installments within the time stipulated by this Court and that he requires 12 months time to pay the entire amount together with interest accrued till the last payment. Learned counsel for respondents 1 and 4 objected to the same and submitted that even if this Court is going to grant time to pay the entire amount in installments, 12 months time is a longer one. According to him, since the petitioner is a defaulter, the entire amount should be paid at one stroke.

4. The Honourable Supreme Court in the decision in P.K.Hospitality Services Ltd. v. UOI [2012 (26) STR J142 (SC)], while dealing with the demand of service tax directed the appellant therein to pay the arrears in equated monthly installments. The relevant portion of the order reads as follows:

"Having heard learned counsel for the appellants on the question of stay with regard to the arrears of service tax due as on 30th September, 2011, we direct that on each of the appellant's clearing all the arrears as on the said date in three equated instalments, on or before 1st March, 2012; 1st May 2012 and 1st July 2012, no coercive steps shall be taken against the appellants for the recovery of the said arrears. However, in the event of default on the part of the appellants in deposit of any one of the instalments by due date, it will be open to the respondents to recover the entire amount in arrears

forthwith."

5. This Court, in the decision dated 04.12.2014 in C.M.A.No.3155 of 2014, has referred to the said judgment and permitted the petitioner to pay the amount in installments.

6. Accordingly, this Court orders as follows:

- (i) the order of the first respondent is modified to the effect that the petitioner is directed to deposit the entire amount in eight monthly installments on or before the last working day of every month and the first installment shall commence from February'2015.
- (ii) if there is any failure to deposit any one of the installments by due date, the respondents 1 and 4 are empowered to proceed against the petitioner in terms of the original order which has not been set aside by this Court.

This Writ Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gm

To

1. The Additional Commissioner of Central Excise III,
26/1, Mahatma Gandhi Road,
Nungambakkam,
Chennai - 600 034.
2. The Manager,
Punjab National Bank,
Kancheepuram - 631 501.
3. The Manager,
State Bank of India,
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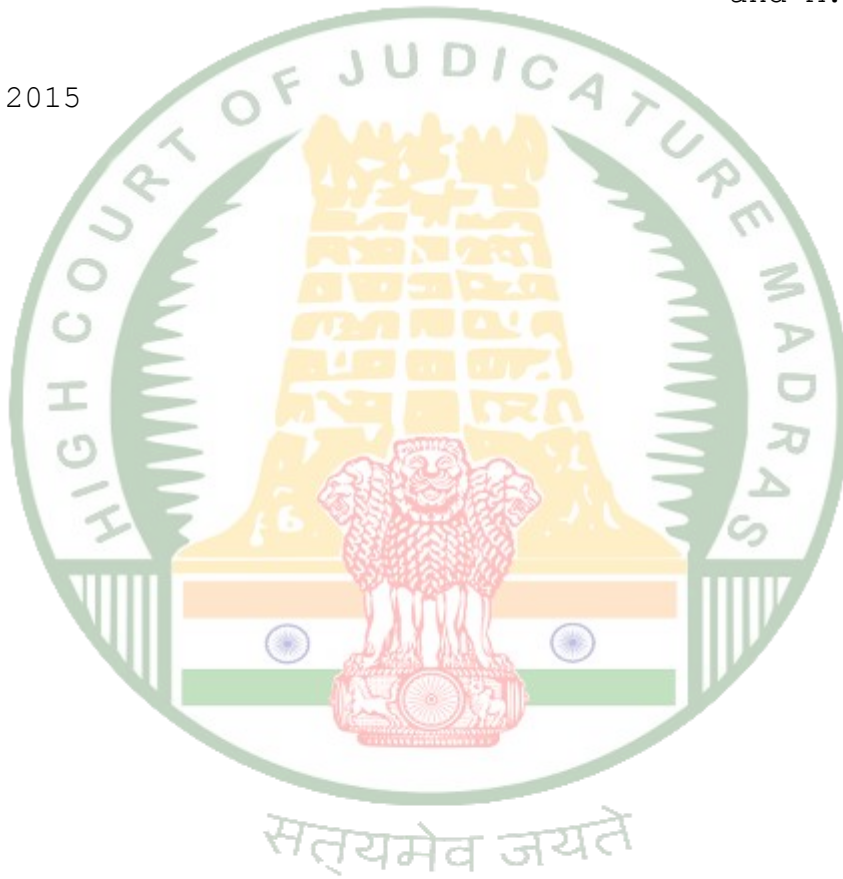
4. The Superintendent of Central Excise,
Kancheepuram Range,
26/7, First Floor, Madam Street,
Kancheepuram - 631 501.

1CC to Mr.P. Srinivas, Advocate, SR 7038

1CC to Mr.T.Chandrasekaran, Advocate, SR 7048

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VD[CO]
PSI 13.02.2015



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