IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 01.06.2016

Coram

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.13217 of 2016
and
W.M.P.No.11585 of 2016

Transcoastal Gargo & Shipping Ltd.
1st Floor, Catholic Centre
Armenian Street
Chennai-600 001.
(Rep. by its Authorized Signatory) ... Petitioner

Vs.

The Principal Commissioner
Service Tax-1, Commissionerate
Newry Towers
No.2054, 12th Main Road
II Avenue, Anna Nagar
Chennai-600 040. ... Respondent

Writ Petition is filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorari to call for the records culminating in the order dated 29.12.2015 (issued by the Principal Commissioner, Service Tax - 1, Commissionerate, Chennai, in File C.No.IV/09/332/2013-STC Adj) and quash the order.

For Petitioner : Mr.Bijesh Thomas

For Respondent : Mr.A.P.Srinivas

O R D E R

The petitioner has filed this Writ Petition challenging the order passed by the Principal Commissioner, Service Tax-1, Commissionerate, Chennai, by which the demand of service tax to the tune of Rs.5,72,72,575/- has been confirmed apart from levying interest and imposing penalty.

2. The learned counsel for the petitioner submitted that earlier the petitioner approached this Court and filed a Writ Petition in W.P.No.30592 of2015 challenging the order-in-original dated 06.02.2015 and the said Writ Petition was allowed and the matter was remanded to the Commissioner to grant an

opportunity of personal hearing on 16.12.2015 and after hearing the parties the Commissioner was directed to pass fresh orders. Though opportunity of personal hearing was granted, it is submitted by the learned counsel for the petitioner that the present impugned order is a verbatim repetition of the earlier order.

3. On a perusal of the impugned order, it is seen that the discussion and the finding commences from paragraph 6.0 and there are certain observations and findings rendered by the Commissioner, while confirming the demand raised on the petitioner in the show cause notice dated 22.10.2013. Therefore, on the ground raised by the petitioner, the impugned order cannot be interfered in a Writ Petition at this stage of the matter since as against the impugned proceedings, the petitioner has effective remedy of filing an appeal before the CESTAT. Hence the Writ Petition cannot be entertained since the appeal remedy is available to the petitioner.

4. In the light of the above, the Writ Petition is dismissed as not maintainable giving liberty to the petitioner to approach the Tribunal as against the impugned order. The Tribunal while computing the limitation shall exclude the period during which this Writ Petition was pending before this Court ie., from April 2016 till the receipt of the certified copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mra

To:

The Principal Commissioner
Service Tax-1, Commissionerate
Newry Towers
No.2054, 12th Main Road
II Avenue, Anna Nagar
Chennai-600 040.

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.29384
+1cc to Mr.Bijesh Thomas, Advocate, S.R.No.29125

W.P.No.13217 of 2016
and
W.M.P.No.11585 of 2016

BVR(CO)
CA(23/06/2016)