IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 15.04.2016

CORAM

THE HONOURABLE MR.JUSTICE M.DURAISWAMY

W.P.No.14319 of 2016

&

W.M.P.No.12505 of 2016

G.K.Suresh Babu .. Petitioner

-Versus-

1.The Deputy Commissioner of Central Excise,
Office of the Deputy Commissioner of Central Excise,
Hosur Division,
Hosur - 635 126.

2.The Superintendent of Service Tax,
(Service Tax Cell), Hosur II Division,
Hosur-635 126. .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, to call for the records of the first respondent in connection with the impugned notice passed by the first respondent in C.No.IV/17/08/2016-STC, dated 04.04.2016 and quash the same.

For Petitioner : Mr.M.D.Thirunavukkarasu

For Respondents : Mr.T.Chandrasekaran
Standing Counsel

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O R D E R

The petitioner has filed the above Writ Petition for issuance of Writ of Certiorari to call for the records of the first respondent, calling the petitioner in connection with the impugned notice passed by the first respondent dated 04.04.2016 and to quash the same.

2. It is the case of the petitioner that he is a Civil Contractor. The petitioner was duly registered as a dealer under Section 20 of the Tamil Nadu General Tax Act, 1959, in the Office of the Commercial Tax Officer and obtained a Certificate of Registration from the Department.

3. During the year 2005-2006, the petitioner did not pay the Service Tax to the respondents. The first respondent issued a notice dated 17.11.2006, demanding a sum of Rs.13,288/- towards delayed payment of Service Tax, which was also paid by the petitioner. In the meanwhile, the respondents demanded, a sum of Rs.14,87,115/- stating that the petitioner had collected for the service rendered by him for the period March 2005 to September 2005 and he had not paid Service Tax and Educational Cess of Rs.1,48,712/- and Rs.2,974/-. The petitioner is now challenging the consequential order passed under Section 87 of the Finance Act, dated 04.04.2016.

4. On a perusal of the impugned order, it could be seen that the petitioner, in spite of repeated reminders, to produce documents evidencing payment of dues, he had not sent any reply or made payment of the Service Tax. By the original order No.16 of 2006, dated 28.02.2007, the petitioner was called upon to pay a sum of Rs.27,360/- towards interest and a sum of Rs.1,51,686/- towards penalty.

5. Mr.T.Chandrasekaran, learned Standing Counsel taking notice for the respondents submitted that the petitioner had not challenged the original order and therefore, the present Writ Petition is liable to be rejected, since the prayer sought for is only to set-aside the consequential order dated 04.04.2016.

6. As rightly contended by the learned Standing Counsel for the respondents, without challenging the original order dated 28.02.2007, the petitioner cannot challenge the consequential order dated 04.04.2016 and it could be seen that the petitioner did not pay the amount in spite of repeated reminders sent by the respondents.

7. In these circumstances, I do not find any merits in the Writ Petition, which is liable to be dismissed. Accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

r n s

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Deputy Commissioner of Central Excise,
Office of the Deputy Commissioner of Central Excise,
Hosur Division,
Hosur - 635 126.

2.The Superintendent of Service Tax,
(Service Tax Cell), Hosur II Division,
Hosur-635 126.

+ 1 cc to Mr.T.Chandrasekaran, Advocate Sr 23663

+ 1 cc to Mr.M.D.Thirunavukkarasu, Advocate Sr 23807

KR/20/4/16

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