In the High Court of Judicature at Madras

Dated : 25.7.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.25774 of 2016 & WMP.Nos.22088 & 22089 of 2016

M/s.Innovision, rep.by its Managing Parter K.Anand Kumar, Coimbatore-18. ...Petitioner

Vs

1.The Commissioner of Central Excise (Appeals), Coimbatore.

2.The Additional Commissioner of Customs, Central Excise & Service Tax, Coimbatore.

3.The Superintendent of Central Excise, III-B Range, Coimbatore-12. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the order dt 31.3.2016 passed by the 3rd respondent dated in O.C.314/2016-ST in confirming the order passed by the 1st respondent dated 21.2.2013 in Order in Appeal No.CMB-CEX-000-APP-077-13 and quash the same.

For Petitioner : Mr.F.Jenaldesrome
For Respondents : Mr.A.P.Srinivas, SPC

ORDER

Mr.A.P.Srinivas, learned Senior Panel Counsel accepts notice for the respondents. Heard both.

2. Though the learned counsel for the petitioner seeks to canvass the correctness of the impugned order by raising several factual issues and also by contending that this Court, in the earlier order dated 23.4.2012 made in W.P.No.10772 of 2012, set aside the penalty, the learned Senior Panel Counsel points out that the earlier writ petition pertains to an interim order granted by the Appellate Authority as a condition precedent for grant of stay and while testing the correctness of the order impugned therein, this Court modified the condition as the same can have no impact on the final adjudication of the matter.

3. In any event, the question involved in this case is as to whether the petitioner is liable to pay service tax or not. Admittedly, as against the impugned order, the petitioner has an

effective alternate remedy of appeal before the Tribunal and there is no valid reason given by the petitioner before this Court to bypass such an effective and efficacious alternate remedy. It has been repeatedly held by this Court as well as the Hon'ble Supreme Court that appeal remedy provided under the Taxing Statutes being not only effective, but also efficacious, the parties should not be allowed to bypass it.

4. Accordingly, the writ petition is dismissed granting liberty to the petitioner to prefer an appeal before the Tribunal. No costs. Consequently, the above WMPs are also dismissed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.The Commissioner of Central Excise (Appeals), Coimbatore.

2.The Additional Commissioner of Customs, Central Excise & Service Tax, Coimbatore.

3.The Superintendent of Central Excise, III-B Range, Coimbatore-12.

+1 cc to Mr.F.Jenalderome, advocate,sr.42491

+1 cc to Mr.A.P.Srinivas,advocate,sr.42491.

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