In the High Court of Judicature at Madras

Dated: 20.12.2016

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The Honourable Mr.JUSTICE RAJIV SHAKDHER

Writ Petition No.43768 of 2016
& WMP No.37580 of 2016

Shri.M.Palanisamy .... Petitioner

Vs.

1. Union of India,
Represented by its Secretary
to Government of India,
Finance Department,
New Delhi-110 001.

2. Commissioner of Central Excise and Service Tax,
Race Course Road,
Coimbatore.

3. Additional Director General of
Central Excise Intelligence,
Chennai Zonal Unit,
Rajaji Bhavan, Besant Nagar,
Chennai-600 090.

4. The Secretary,
Central Board of Excise and Customs,
New Delhi. .... Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of Writ of Declaration declaring that the transactions mentioned in the said show cause notice No.F.No.INV/DGCEI/VHZU/ST 98/2015, dated 09.10.2015 (OR No.103/2015) do not establish rendering of any service much less the taxable service consequently issuance of the above issued by the third respondent proposing to demand service tax from the petitioner for the period from 01.04.2010 to March 2015 is unlawful and opposed to constitutional proprietary and further forbearing the third respondent from adjudicating upon the impugned show cause notice dated 09.10.2015 and pass such other further orders as may be deemed fit in the facts and circumstances of the case.

For Petitioner : Mr.AR.L.Sundaresan,
Senior Counsel
for M/s.K.K.Sivasshanmugam

For Respondents : Mr.A.P.Srinivas

O R D E R

1. Issue notice. Mr.A.P.Srinivas, accepts notice on behalf of respondents.

1.1. With the consent of counsel for parties, the Writ Petition is taken up for hearing and final disposal.

2. The petitioner is, essentially, aggrieved by the show cause notice dated 09.10.2015 (SCN), whereby, the respondent No.2 seeks to adjudicate whether the activities carried out by him are taxable services.

3. A perusal of the impugned SCN would show that the petitioner has already supplied some part of the information as sought for by the respondent.

4. I am, though, informed by the learned senior counsel appearing for the petitioner that no formal reply to SCN has been filed by the petitioner. It is stated by the learned senior counsel that the petitioner is required to appear before respondent No.2, tomorrow, i.e., 21.12.2016.

4.1. I have indicated to the learned senior counsel for the petitioner that, at this stage, this Court is not inclined to interfere in the matter.

4.2. Consequently, learned senior counsel for the petitioner, on instructions, says that if this Court were to extend the time for filing a reply to the SCN, the petitioner and/or his authorised representative would appear before respondent No.2 and participate in the adjudication of the impugned SCN.

5. Mr.A.P.Srinivas, who appears on behalf of respondents, says that he would have no difficulty, if this Court were to grant further time for filing a reply.

6. Accordingly, the Writ Petition is disposed of with a direction to respondent No.2 to grant time till 20.01.2017 to the petitioner to file a reply to the SCN. The respondent No.2 will fix a fresh date for hearing the petitioner and/or his

authorised representative, and thereafter proceed to pass an adjudication order, albeit, in accordance with law.

7. Resultantly, connected Miscellaneous Petition shall stand closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary, Finance Department,
   Government of India, New Delhi-110 001.

2. The Commissioner of Central Excise and Service Tax,
   Race Course Road, Coimbatore.

3. Additional Director General of Central Excise Intelligence,
   Chennai Zonal Unit, Rajaji Bhavan, Besant Nagar,
   Chennai-600 090.

4. The Secretary, Central Board of Excise and Customs,
   New Delhi.

+1cc to Mr.K.S.Sri Giriprasath, Advoate Sr.74180

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srg 21/12/2016