

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2016

CORAM

THE HON'BLE MR. JUSTICE V.PARTHIBAN

W.P.No.45236 of 2002

and WMP.No.6610 of 2002

Chemplast Employees Union
(Regn.No.SLM 70),
rep.by its Secretary,
Raman Nagar, Mettur Dam 636 403.
.. Petitioner

Vs.

- 1.Union of India,
Ministry of Finance,
Department of Revenue,
(Central Board of Direct Taxes),
New Delhi.
- 2.The Management of Chemplast Sanmar Limited,
Plant No.II,
Raman Nagar, Mettur Dam 636 403,
Salem District.
.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Manamus calling for the concerned records from the respondents relating to the impugned notification of the 1st respondent dated 25.09.2001 and the consequential notice dated 25.01.2002 and quash the same in sofaras they seek to impose tax on accommodation given to the petitioner members of the petitioner Union whose names are given in annexure to the affidavit filed in support of the writ petition.

For Petitioner	: Mr.Balan Haridas
For R1	: Mr.M.Jagadeesan
For R2	: Mr.M.P.Senthilkumar & Ms.G.Suseela

O R D E R

The learned counsel appearing for the petitioner submits that the notification under challenge in the writ petitions have been appealed by the Hon'ble Apex Court in a decision reported in (2007) SCC 732, Arunkumar and Others vs. Union of India and Others, wherein, the relevant portion of the observation made by the Apex Court in respect of the impugned notification in paragraph-99 of the Judgment, which is extracted hereunder:

"For the foregoing reasons, we hold that though Rule 3 of the Rules cannot be held arbitrary, discriminatory or ultra vires of the Constitution nor inconsistent with the par Article 14 parent Act [Section 17(2)(ii)], it is in the nature of 'machinery-provision' and applies only to the cases of 'concession' in the matter of rent respecting any accommodation provided by an employer to his employees. Whether or not Parliament could have in the exercise of legislative power created a 'deeming fiction' as to concession in the matter of rent in certain circumstances (for which we express no final opinion), no such deeming provision is found in the Act. It is, therefore, open to the assessee to contend that there is no 'concession' in the matter of accommodation provided by the employer to the employees and the case is not covered by Section 17 (2) (ii) of the Act. "

2. In view of the same, this writ petition is closed as the issue does not survive for any consideration by this court. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते
Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

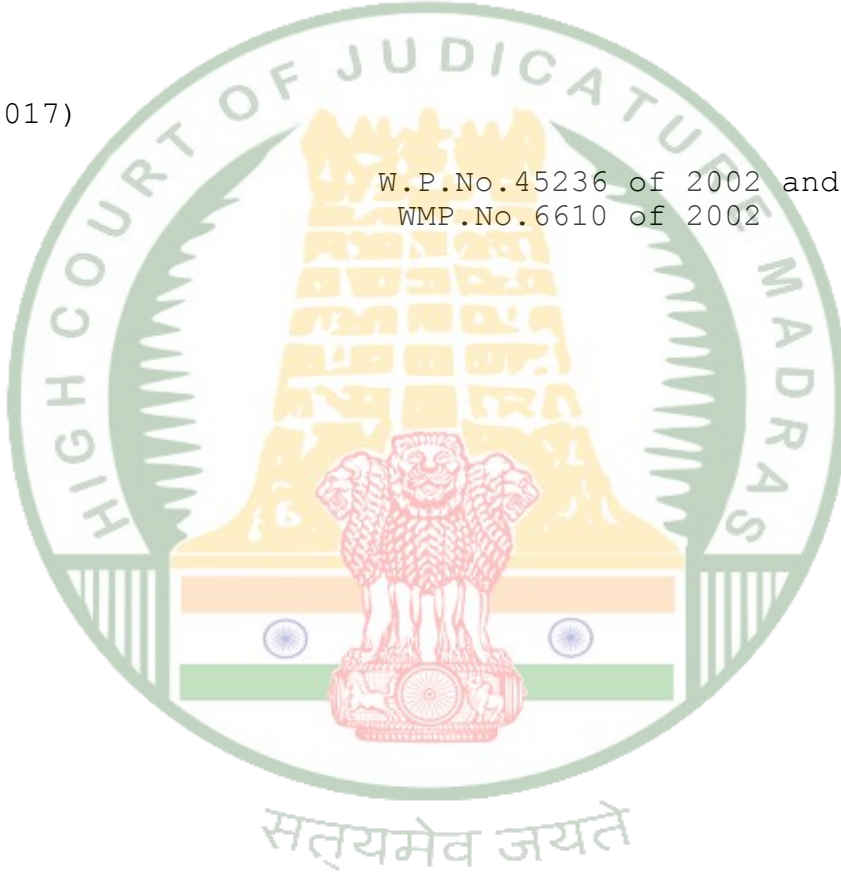
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To

- 1.Union of India,
Ministry of Finance,
Department of Revenue,
(Central Board of Direct Taxes),
New Delhi.
- 2.The Management of Chemplast Sanmar Limited,
Plant No.II
Ram Nagar, Mettur Dam 636 403,
Salem District.

sr(CO)
md(01/01/2017)

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