

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.7.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.28107 of 2004 and WVMP.No.1828 of 2006

Navin Kumar Manoharan, Managing
Director, IMS Credit Services Pvt.Ltd. ...Petitioner

Vs

The Senior Intelligence Officer,
Directorate General of Central
Excise Intelligence, Chennai Zonal
Unit, C-3, C Wing, Rajaji Bhavan,
Chennai-90. ...Respondent

PETITION under Article 226 of The Constitution of India
praying for the issuance of a Writ of Certiorari to call for the
records of the respondent pursuant to the impugned summon dated
18.8.2004 and quash the same.

For Petitioner : Mr.T.Prabhakar
For Respondent : Mr.V.Sundareswaran, SSC

ORDER

Heard Mr.T.Prabhakar, learned counsel for the petitioner and
Mr.V. Sundareswaran, learned Senior Standing Counsel for the
respondent.

2. The petitioner has filed this writ petition challenging
the summons issued by the respondent calling upon the petitioner
to appear in person and produce necessary records. The impugned
summons has been issued under Section 14 of the Central Excise
Act, 1944 read with Section 83 of the Finance Act, 1994.

3. The contention of the petitioner is that the nature of service rendered by them is not taxable under the Finance Act, 1994.

4. However, since the impugned proceedings is only a summon, the question of quashing the same does not arise. The Hon'ble Supreme Court in the case of Commissioner of Customs, Calcutta Vs. M.M.Exports [reported in (2007) 212 ELT 165], held that the High Court should not interfere at the stage when the Department issues summons and the instant case is not an exceptional case where the High Court should interfere at the stage of issuance of summons. It is always open to the petitioner to raise all the contentions by appearing before the Department in person or through authorized representative. Therefore, the challenge fails.

5. Accordingly, the writ petition is dismissed, leaving it open to the respondent to proceed further in accordance with law after issuing a fresh notice/summons. No costs. Consequently, the above WVMP is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To
The Senior Intelligence Officer,
Directorate General of Central Excise Intelligence, Chennai
Zonal Unit, C-3, C Wing, Rajaji Bhavan,
Chennai-90.

+1 cc to M/s.V.Sundareswaran Advocate sr.39132
+2 cc to Mr.C.T.Prabhakar Advocate sr.38428

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