

In the High Court of Judicature at Madras

Dated : 08.12.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.31904 of 2017
and WMP.No.35051 of 2017

Al meezab Haj and Umrah services
Rep. By its Managing Partner
No.10, Patnool Sardar Jung Street
Periamet
Chennai-600 003

...Petitioner

Vs

1.The Government of India, rep.by
its Secretary, Ministry of Minority
Affairs, Haj Division, ISIL Building,
V.K.Krishnavelan Bhavan, No.9,
Bhagavandas Marg, New Delhi.

2.The Deputy Commissioner (Preventive),
O/o the Principal Commissioner of
GST and Central Excise, Chennai
North Commissionerate, No.26/1,
Mahatma Gandhi Road, Chennai-34.

...Respondents

Prayer : PETITION under Article 226 of The Constitution of India praying for
the issuance of a Writ of Prohibition prohibiting the second respondent from
holding any enquiry/assessment/demand in furtherance of the proceedings of
the second respondent in C.No.IV/6/04/2017-HPU dated 11.9.2017.

For Petitioners : Mr.M.Ajmal Khan, SC for
M/s.Ajmal Associates
For Union : Mr.K.Raju, CGSC
For Department : Mr.A.P.Srinivas for R2.

ORDER

Heard Mr.Ajmal Khan, learned Senior counsel representing M/s.Ajmal Associates for the petitioner, Mr.K.Raju, learned Central Government Standing Counsel accepting notice for the Union and Mr.A.P.Srinivas, learned Standing counsel accepting notice for the Department. With the consent of learned counsel appearing on either side, the Writ Petition is taken up for final disposal.

2. The learned counsel for the petitioner fairly submits that identical relief has been sought for by other writ petitioners in W.P.No.31155 to 31165 of 2017 and this court, dismissed the said Writ Petitions, by order dated 30.11.2017, issuing certain directions. The operative portion of the order reads as follows:-

" 12. For all the above reasons, the objections raised by the learned Standing Counsel for the respondents, are sustained and in the result, it is held that the writ petitions are premature. This Court does not wish to express anything on the merits of the matter and it is made clear that a decision would be taken by the second respondent in accordance with law after perusal of the documents produced by the petitioners. It is reiterated that on production of the records, the second respondent shall examine as to what are the types of services rendered by the petitioners and in case the second respondent is of the opinion that the services rendered by the petitioners to the Indian Haj and Umra pilgrims are liable for service tax, it is needless to state that the second respondent shall afford an opportunity of personal hearing by way of issuing a show cause notice, so that the petitioners will be able to canvass the contentions raised before this Court in these writ petitions.

13. Hence, this Court holds that the prayer sought for in these writ petitions is premature. Accordingly, the writ petitions are dismissed. No costs. Consequently, the connected WMPs are also dismissed.

14. The petitioners are directed to cooperate with the proceedings before the second respondent and produce all the records with liberty to raise all the legal contentions put forth by the learned Senior Counsel for the petitioners in these writ petitions.

15. After the above order is dictated, the learned Senior Counsel for the petitioners submits that reasonable time may be granted to the petitioners to go before the second respondent for production of records.

16. The petitioners are directed to appear before the second respondent within two weeks from the date of receipt of a copy of this order.

17. The learned Senior Counsel appearing for the petitioners further submits that since the summons have been issued against the petitioners, the petitioners apprehend that coercive action will be initiated. He also submits that since records are not produced, a communication has been sent indicating the statutory powers conferred upon the second respondent.

18. It is needless to add that since the petitioners are to cooperate in the proceedings before the second respondent, no coercive action shall be initiated against them. "

Thus, following the above order, this Writ Petition is dismissed on the same lines. No costs. Consequently, connected WMP is closed.

08.12.2017

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T.S.SIVAGNANAM,J

nvsri



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