IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.11.2017

Coram

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.13805 of 2009
and
M.P.Nos.1 and 2 of 2009

C.M. S. Badrudin ...Petitioner

Vs.

1. The District Collector,
Nilgiris District Collectorate,
Nilgiris.

2 The Commissioner,
Conoor Municipality,
Municipal Officer,
Conoor - 643 102.

...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records from the second respondent, bearing No.No.A4/956/2007, dated 29.05.2009, and to quash the same as unconstitutional and consequently, to direct or forbear the respondent from in any manner, imposing, levying, collecting or demanding service tax from the petitioner with respect to shop No.90, bearing Assessment No.101, situate at Market, Coonor, No2.

For Petitioner : Mr.T. T. Ravichandran

For Respondent-1 : Mr.S. Rajeswaran
Special Government Pleader

For Respondent-2 : Mr. G. Sankaran

O R D E R

Heard Mr.T.T. Ravichandran, the learned counsel appearing for the petitioner, Mr.S. Rajeswaran, the learned Special Government Pleader for the first respondent and Mr. G. Sankaran, the learned counsel for the second respondent.

2. The petitioner, who is a licensee/lessee of the second respondent/Municipality, is aggrieved by a demand issued by the

second respondent, calling upon the petitioner to pay service tax.

3. The petitioner would state that, in the impugned demand, it has been stated, as if, the enactment is a State enactment, when the enactment is Central enactment, and therefore, it is pointed out that the impugned notice is an outcome of application of mind. Further, it is submitted that, similar cases are pending before the Hon'ble Supreme Court for consideration.

4. Both the contentions raised by the petitioner do not merit consideration. Merely because, a wrong provision of law has been quoted, the same will not render the impugned notices as bad in law. That apart, an identical issue with regard to the liability of the licensee/lessee was considered by the Hon'ble Division Bench (in which I was a party) in Court, in G.V. Matheswaran Vs. Union of India and others reported in [(2015) 86 VST 433 (Mad) wherein, it was held that, the Municipality is bound to pay service tax and the Municipality is a service provider, and the licensee/lessee like the petitioner, have not locus standi to question the demand, as they have agreed in the Lease Agreement/Licence conditions that they will pay all taxes, which are payable under law. Therefore, the petitioner has not made out any grounds to interfere with the impugned proceedings.

5. Accordingly, the Writ Petitions fails and it is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Deputy Registrar

/true copy/

Sub Asst. Registrar

To

1. The District Collector,
Nilgiris District Collectorate,
Nilgiris.

+1cc to Mr. G. Sankaran, Advocate sr.no.79826

Writ Petition No.13805 of 2009

nr 08/1/18