IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP No.25970 of 2007
&
MP No.1 of 2007

M/s.Srinivasan Associates Private Limited
63, GI, Sarojini Street, Ramnagar
Coimbatore 641 009 ... Petitioner

Vs.

1.Union of India rep. By its Secretary
Ministry of Finance
Department of Revenue
Government of India
North Block
New Delhi - 110 001

2.The Deputy Commissioner of
Central Excise
Service Tax Cell III Division
ELGI Building, 1237
Trichy Road, Coimbatore ... Respondents

Prayer: Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of Declaration to declare Explanation in SI.No.7 of Notification No.1/2006-ST dated 01.3.2006 as ultra vires Sections 65 (105) (zzq), 65 (zzzh), 66 and 67 of the Finance Act, 1994 as amended and also ultra vires Articles 14 and 265 of Constitution of India insofar as the petitioner is concerned.

For Petitioner : Ms.Radhika Chandrasekaran

For Respondent : MrA.P.Srinivas
Senior Panel Counsel

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O R D E R

Heard Ms.Radhika Chandrasekaran, learned counsel for the petitioner and MrA.P.Srinivas, learned senior panel counsel appearing for the respondents.

2. The petitioner, has sought for a writ of declaration to declare the explanation in SI.No.7 of Notification No.1/2006-ST dated 01.3.2006 as ultra vires Sections 65 (105) (zzzq), 65 (zzzh), 66 and 67 of the Finance Act, 1994 as amended and also ultra vires Articles 14 and 265 of Constitution of India insofar as the petitioner is concerned.

3.At this juncture, it may not be necessary for this Court to decide the issue in the light of the decision of the Hon'ble Supreme Court in Commissioner of C.Ex. & Cus. Kerala Vs. Larsen and Toubro Ltd., reported in 2015 (39) S.T.R 913 (SC).

4. The learned counsel for the petitioner relied upon the decision of the larger Bench of CESTAT in the case of Bhayana Builders (P) Ltd., Vs. Commissioner of Service Tax, Delhi reported in 2013 (32) S.T.R.49 (Tri.-LB).

5. In the light of the subsequent development, the writ petition is disposed of giving liberty to the petitioner to respond to the show-cause notice that has already been issued or that may be issued by the competent authority by bringing to the notice of the concerned officials decision in the case of Commissioner of C.Ex. & Cus. Kerala Vs. Larsen and Toubro Ltd., and the said officer is directed to take a decision on merits and in accordance with law after affording an opportunity of personal hearing to the authorized representative of the petitioner. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary
Union of India
Ministry of Finance
Department of Revenue
Government of India
North Block, New Delhi - 110 001

2.The Deputy Commissioner of
Central Excise
Service Tax Cell III Division
ELGI Building, 1237
Trichy Road, Coimbatore

+1 cc to M/s.A.P.Srinivas Advocate sr 77236
+1 cc to M/s.K.Vaitheeswaran Advocate sr 77135

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