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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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+ **W.P.(C) 191/2017**

ARMY GROUP INSURANCE FUND ..... Petitioner
Through: Mr. R. Sudhinder and Ms. Prarna Amitabh, Advocates.

versus

UNION OF INDIA, MINISTRY OF FINANCE & ANR. ..... Respondents
Through: Mr. Kavindra Gill, Advocate for UOI.
Mr. Harpreet Singh, Senior Standing Counsel for Respondent No.2 with Ms. Namrata Bhati, Advocate.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE CHANDER SHEKHAR

O R D E R
% **03.05.2017**

CM No. 814/2017 (for exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 191/2017 & CM No. 813/2017 (for stay)

2. The prayer in this petition by the Army Group Insurance Fund is to quash an order dated 14th December, 2016 passed by the Commissioner of Service Tax, Delhi-3 confirming the demand of service tax of Rs. 412,78,78,686 for the period between October 2010 and March 2015 under 'Life Insurance Service' under sub-section (1) of Section 73 read with Sections 66 and 68 of the Finance Act, 1994. A penalty of the equivalent amount was imposed

under Section 78 of the Act apart from a penalty of Rs.10,000 under Section 77 of the Finance Act, 1994.

3. While directing notice to issue in the present petition on 9th January, 2017, it was directed that no coercive steps would be taken by the Respondent to enforce the impugned demands. Thereafter, the matter was adjourned on 22nd March, 2017.

4. Till date, no counter affidavit has been filed by the Respondents. However, the Court's attention has been drawn to the fact that by the Finance Act, 2017, Section 105 has been inserted in the Finance Act, 1994 which reads as under:

> "105. Special provision for exemption in certain cases relating to life insurance services provided to members of armed forces of Union-(1) Notwithstanding anything contained in section 66, as it stood prior to the 1st day of July, 2012, or in section 66B, no service tax shall be levied or collected in respect of taxable services provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds by way of life insurance to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government, during the period commencing from the 10th day of September, 2004 and ending with the 1st day of February, 2017 (both days inclusive).
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> (2) Refund shall be made of all such service tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times.
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> (3) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2017 receives the assent of the President."

5. A reading of the said provision indicates that it is retrospective and it is meant to apply to the Group Insurance Scheme of the members of the Army, Navy and Air Force during the period commencing from 10th September, 2004 to 1st February, 2017. Clearly, therefore, the impugned order passed by Respondent No. 2 cannot be sustained in view of the above statutory provision. This position is not disputed by learned counsel for Respondent No. 2.

6. In that view of the matter, the impugned order is hereby set aside in light of the Section 105 of the Finance Act, 1994 as inserted by the Finance Act, 2017.

7. The petition and the application are disposed of in the above terms. Order be given *dasti.*

S. MURALIDHAR, J

CHANDER SHEKHAR, J

MAY 03, 2017/dn