IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 12.12.2018
CORAM
THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.6814 of 2011
and M. P.No.1 of 2011

D.Ezhil Kumar .. Petitioner

vs.

1.The Union of India,
Rep.by the Secretary,
Ministry of Finance,
New Delhi.

2.The Assistant Commissioner of Central Excise,
Vellore Division, Vellore 632 001. .. Respondents

Prayer.: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari calling for the records relating to the order passed by the second respondent in C.No.IV/16/54/2009-S.Tax dt.15.02.2011 and quash the same.

For Petitioner : Mr.J.Raja Rao for M/s.R.Saravana Kumar

For R1 : No Appearance

For R2 : Mr.A.P.Srinivas Senior Standing Counsel for Central Excise

O R D E R

The petitioner has filed the present writ petition, challenging the impugned order passed by the second respondent dated 15.02.2011.

2. According to the learned counsel for the petitioner, the issue pertains to demand of service tax from the petitioner under the category of " Management, Maintenance and Repair Services". The Revenue does not dispute the fact that in terms of Section 97 of the Finance Act, 1994 as inserted by Finance Act 23/12 dated 28.05.2012, there is an expression that in respect of Management and Repair Services, no service tax shall be levied to be collected. The said provision reads as follows:

97. Special Provision for exemption in certain cases relating to
Management etc., of roads.
(1) Notwithstanding anything contained in Section 66, no service tax shall be levied or collected in respect of management, maintenance or repair of roads, during the period on and from the 16^{th} day of June 2005 to the 26^{th} day of July, 2009 (both days inclusive)

3. Admittedly, the service tax has been claimed from the petitioner from 16.06.2005 to 30.09.2008 which falls within the aforesaid period during which the legislature has granted exemption. Thus the impugned order is liable to be set aside.

4. Accordingly, this writ petition is allowed and the impugned order passed by the second respondent in C.No.IV/16/54/2009-S.Tax dt.15.02.2011, is quashed. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary,
The Union of India,
Ministry of Finance,
New Delhi.

2.The Assistant Commissioner of Central Excise,
Vellore Division,
Vellore 632 001.

+1cc to Mr.R.Saravanakumar,Advocate, S.R.No.86967
+1cc to Mr.A.P.Srinivas,Advocate, S.R.No.85918

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VGI(CO)

rrs 01/02/2019