

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.4124 of 2013

M/s.Sanghvi Enterprises,
No.39,Head Post Office Road,
Coimbatore-641 001.

... Petitioner

Vs.

1.The Commissioner of Central
Excise and Service Tax
6/7-ATD Street, Race Course Road
Coimbatore-641 018.

2.The Assistant Commissioner of Central
Excise and Service tax
Coimbatore III Division, Service Tax Cell
Elgi Building, 1237-Trichy Road
Coimbatore-641 018.

3.The Superintendent of Central
Excise and Service Tax,
Coimbatore III C Range,
138-E, Podanur Road,
Coimbatore-641 023.

.... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, call for the records pertaining to the order in original S.L.No.1/2006 dated 3.1.2006 and the consequent recovery notice OC No.47/2013 dated 24.1.2013 issued by the second and third respondents and quash the same.

For Petitioner : Mr.M.N.Bharathi

For Respondents: Mr.S.R.Sundar
Senior Panel Counsel

O R E R

Heard Mr.M.N.Bharathi, learned counsel for the petitioner and Mr.S.R.Sundar, learned Senior Panel Counsel appearing on behalf of the respondents.

2.The petitioner has filed this writ petition challenging the proceedings issued by the second and third respondents dated 24.01.2013 and the consequential recovery notice issued on the petitioner for non-payment of the service tax dues. The petitioner's contention that they have filed a Review Petition on 30.03.2006 under Section 74 of the Finance Act for rectification of the order and since the said petition is pending and the petitioner prays for the stay of the recovery.

3.At the time when the writ petition was entertained and an order of stay was granted, which was already made absolute on 24.10.2016 and at this juncture, it is inequitable to vacate the interim order and to direct the petitioner to pay the amount, since the department takes stand that no review petition has received in the office of the respondents.

4.Thus, considering the peculiar facts and circumstances of the case, this writ petition is disposed of. The petitioner is directed to file a Review Petition within a period of 30 days from the date of receipt of a copy of this order. No costs.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

may
To

- 1.The Commissioner of Central
Excise and Service Tax
6/7-ATD Street, Race Course Road
Coimbatore-641 018.
 - 2.The Assistant Commissioner of Central
Excise and Service tax
Coimbatore III Division, Service Tax Cell
Elgi Building, 1237-Trichy Road
Coimbatore-641 018.
 - 3.The Superintendent of Central
Excise and Service Tax,
Coimbatore III C Range,
138-E, Podanur Road,
Coimbatore-641 023.
- + 1 cc to Mr.S.Dorairaj, Advocate SR.5430
+ 1 cc to Mr.S.R. Sundar, Advocate Sr.4533

W.P.No.4124 of 2013

(Cs-dr)
EU(08/02/2018)