

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.06.2018
CORAM
THE HONOURABLE MR. JUSTICE SUBRAMONIUM PRASAD
W.P.No. 4426 of 2009
and M.P.No.1 of 2009

M/s.Sree Krishna Builders
Rep. By its Partner: Mrs.R.Jayanthi,
F1, First Floor,
No.43, Ansari Street,
Udumalpet-642 126
Coimbatore District

...Petitioner

Vs

1. Union of India
rep. By its Secretary to Government
Ministry of Finance,
Department of Revenue,
North Block, New Delhi.

2.The Commissioner of Central Excise and
Service Tax,
6/7, ATD Street, Race Course,
Coimbatore.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India praying to issue writ of declaration, order or direction, in the nature of writ, to declare the Explanation in Sl.No.7 of Notification No.1/2006-ST, dated 01.03.2006 as ultra vires Sec.65(106)(zzq), 66 and 67 of the Finance Act, 1994 as amended as ultra vires Article 14 and 265 of the Constitution of India, insofar as the petitioner is concerned.

For Petitioner : Mr.M.A.Mudimannan
For Respondents: Mr.S.R.Sundar

ORDER

The instant writ petition has been filed to declare the Explanation in Sl.No.7 of Notification No.1/2006-ST, dated 01.03.2006 as ultra vires Sec.65(106)(zzq), 66 and 67 of the Finance Act, 1994, as amended as ultra vires Articles 14 and 265 of the Constitution of India

2. At the commencement of hearing, Shri S.R.Sundar, learned counsel appearing for the Department of Revenue submits that

this issue is longer res-integra and the matter stands covered by the judgment of the Supreme Court in Civil Appeal No. 6770 of 2004 reported in (2016) 1 SCC170 (CCE & Customs Vs.Larsen & Toubro Ltd.,)

3. The learned counsel for the petitioner submits that the instant writ petition was filed on receipt of the audit objections and that if show cause notice is issued, he would respond to that. The learned counsel also submits that the Department, before issuing show cause notice, must bear in mind the judgment of the Supreme Court in the case of Commissioner of Service Tax Vs.Bhayana Builders (P) Ltd., reported in 2018 (10) G.S.T.L. 118 (S.C)

4. In the light of the above, there is no necessity to go into the merits of the case. The Department may issue show cause notice if so advised and in accordance with law. The writ petition stands disposed of accordingly. Consequently, connected Miscellaneous Petition is closed. No Costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.Secretary to Government
Union of India
Ministry of Finance,
Department of Revenue,
North Block, New Delhi.

2.The Commissioner of Central Excise and
Service Tax,
6/7, ATD Street, Race Course,
Coimbatore.

+1cc to Mr.S.R.Sundar , Advocates sr.no.40032
+1cc to Mr.K.Jayachandran, Advocate sr.no.39796

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nr 05/07/2018