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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 6215/2018

SOUTH INDIA KRISHNA OIL AND FATS PVT. LTD.

..... Petitioner

Through: Mr. Sandeep Jha, Advocate.

versus

COMMISSIONER OF SERVICE TAX & ORS. ..... Respondents

Through: Mr. Praveen Kumar Jain and Ms. Rashmi Kumari, Advocates for R-1.

Mr. Harpreet Singh Sr. Standing counsel for R-2 and 3.

**CORAM:**
**HON'BLE MR. JUSTICE SANJIV KHANNA**
**HON'BLE MR. JUSTICE CHANDER SHEKHAR**

**O R D E R**

**% 01.10.2018**

Petitioner has challenged vires of Rule 10 of Place of Provision of Service Rules, 2012 being *ultra vires* to Section 66B read with Section 64 and 65B (52) and 66C(1) of the Finance Act, 1994. Prayer is also made for striking down Section 66B of the Finance Act, 1994. Third prayer is to strike down paragraph 4 and 4.1 of the TRU circular No. 206/4/2017-ST dated 13th April, 2017. The last prayer is to restrain the respondents from levying service tax by way of transportation of goods by vessel from a place outside India up to the customs station of clearance in India.

2. Finance Act, 1994 including the rules and the circulars issued thereunder have ceased to become effective to transactions with effect from 1st July, 2017. The present writ petition was filed on 29th May, 2018 after

provisions relating to service tax in the Finance Act, 1994 have ceased to become applicable.

3. On being questioned, counsel for the petitioner accepts and admits that there are no pending proceedings against the petitioner. The writ petition is also silent on the said aspect. Counsel for the petitioner states that if the writ petition is allowed and relevant provisions are struck down, petitioner could seek refund. No such plea or prayer has been made in the writ petition. Be that as it may, we do not think it would be appropriate and proper to issue notice to examine validity and vires of statutory provisions that are no longer in operation and no proceedings are pending against the petitioner. We would not enter into an academic exercise and examine the earlier statutory provisions.

4. At this stage counsel for the petitioner states that the petitioner, if advised and necessary, may challenge similar provisions in Central Goods and Service Tax Act, 2017. We have not made any comments in this regard. The present order would not bar/prohibit the petitioner from challenging the present enactment. If a writ petition is filed, the same would be examined in accordance with law on merits.

5. Recording the aforesaid, the writ petition is dismissed.

**SANJIV KHANNA, J.**

**CHANDER SHEKHAR, J.**

**OCTOBER 01, 2018**
**MR**