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HIGH COURT OF CHHATTISGARH, BILASPUR

WPT No. 7141 of 2010

1. M/S CITY MALL DEVELOPERS (P) LTD., A company incorporated under the Companies Act, 1956, having its Registered office at 36, Ganesh Chandra Avenue, Kolkata and a Shopping Mall-cum-Multiplex beside Dairy College, Opposite Hotel Ambrosia, Chhokra Nala, Raipur C.G.
2. Mr. Sanjay Gupta S/o Shri K.K. Gupta, aged about 40 years, Indian Citizen, Director of M/s City Mall Developers (P) Ltd. A-7, Anupam Nagar, Raipur, CG

----Petitioners

VERSUS

1. UNION OF INDIA, through the Secretary, Ministry of Finance, Department of Revenue, Government of India North Block, New Delhi 110001
2. The Central Board of Excise and Customs, Department of Revenue, Ministry of Finance, Government of India North Block New Delhi 110001
3. The Director General of Service Tax, having its office at Piramal Chambers Jijibhoy Lane, Parel (East), Mumbai 400012
4. The Commissioner of Service Tax, Customs and Central Excise, Central Excise Building, Dhamtari Road, Tikrapara, Raipur C.G.
5. The Superintendent, Range Service Tax, C.R. Building, 2nd Floor, Civil Lines, Raipur C.G.

-------**Respondents**

For Petitioners	:	Ms. Anuja Sharma, Advocate on behalf of Mr. B.P. Sharma, Advocate
For Respondents	:	None present.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

Per P.R. Ramachandra Menon, C.J.

01/10/2019

1. The prayers made by the petitioners in the writ petition are in the following terms:

> "10.a declare the impugned provisions, viz section 65(90a) read with section 65(105)(zzzz) of the Finance Act, 1994 as amended by the Finance Act, 2007 and Finance Act, 2010 as null and void and ultra vires the Constitution of India and/or section 66 of the Finance Act and/or be pleased to strike down the said

provisions as illegal, arbitrary and violative of Article 14, 246 and 265 of the Constitution of India;

(b) issue a writ, order or direction in the nature of certiorari or any other writ, order or direction of like nature, setting aside section 76(6)(h) and section 77 of the Finance Act, 2010 and the Notification No. 24/2007 dated 22nd May, 2007 being Annexure-P/3;

(c) declare the Notification No. 24/2007 dated 22nd May, 2007 and Circular No. 98/1/2008-ST dated 4th January, 2008 being Annexure-P/3 and P/4 respectively as revived by Finance Act, 2010 issued by respondent No. 1 as illegal, null and void and ultra vires the provisions of the Finance Act, 1994 as amended by the Finance Act, 2007; Finance Act, 2008 and Finance Act, 2010;

(d) issue a writ of Mandamus, or a writ in the nature of Mandamus, or any other appropriate writ, order or direction restraining the Respondents by their servants, agents and subordinates from, directly or indirectly giving effect to or acting upon the impugned notifications or impugned circulars or collecting any taxes on the basis of section 65(90a), section 65(105)(zzzz) read with section 66 as amended by Finance Act, 2010 and provided retrospective operation on and from 1st June, 2007.

(e) issue a writ or Mandamus, or a writ in the nature of Mandamus, or any other appropriate writ, order or direction restraining the Respondents by their servants, agents and subordinates from, directly or indirectly giving effect to or acting upon the impugned notifications or impugned circulars or impugned show cause notice Annexure-P/1 or collecting any taxes on the basis of section 65(90a), section 65(105)(zzzz) read with section 66 of the Finance Act, 1994 as amended by the Finance Act, 2007 and Finance Act, 2008 and Finance Act, 2010 as stated hereinabove;

(f) That pending notice, admission and final disposal of the present petition, this Hon'ble Court be pleased to restrain the Respondents, their servants, officers and agents from in any manner whatsoever giving effect to directly or indirectly to or acting upon the impugned notification or impugned circular or impugned show cause notice Annexure-P/1 or collecting any taxes on the basis that section 65(90a), section 65(105)(zzzz) read with section 66 and recovering any service tax on immoveable property rented to the Petitioner in the future till the final disposal of the Petition;

(g) ad-interim relief in terms of prayer (f) as stated hereinabove be granted.

(h) for costs of this Petition and orders thereon; and

(i) pass such other and further order/orders as may be deemed fit and proper in the facts and circumstances of the case."

2. Today, when the matter is called up for hearing, the learned counsel appearing for the petitioners submits that she is having no instructions in the matter.

3. In the said circumstances, the writ petition is dismissed for non-prosecution.

Sd/-	Sd/-
(P.R. Ramachandra Menon)	**(Parth Prateem Sahu)**
Chief Justice	Judge

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