IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 17.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.28365 OF 2005
AND
M.P.NO.1 OF 2007

M/s.N.C.Rajagopal and Co.,
No.22, Krishnaswamy Avenue,
Mylapore, Chennai -600004.
Rep. by its Partner
G.N.Gopalarathnam ...Petitioner

Vs

1. The Deputy Commissioner of
Service Tax,
Service Tax Commissionerate,
Ananda Office Centre,
New No.459/Old No.317,
Anna Salai,
Teynampet, Chennai - 600018.

2. Union of India,
Ministry of Finance,
Rep. by its Secretary,
Department of Revenue,
Central Secretariat,
North Block,
New Delhi - 110001. ...Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, forbearing the 1st respondent from the including as part of the value of the taxable services the reimbursement of expenses actually incurred by the petitioner on travel, hotel and other expenses incurred on behalf of the clients and disallowing the CENVAT Credit in respect of expenses incurred by the partners of the petitioner firm in the performance of the services.

For Petitioner : Mrs.Sreelakshmi Valli
for N.Muthukumar

For Respondents: Mr.A.P.Srinivas, SSC

O R D E R

The prayer in the present writ petition is for issuance of a writ of Mandamus, forbearing the 1st respondent from including reimbursement of expenses actually incurred by the petitioner on travel, hotel and other expenses, as part of the value of the taxable services and disallowing the CENVAT Credit.

2. According to the learned counsel for the petitioner, the issue involved in the present writ petition has already been decided in their favour by the Hon'ble Supreme Court in a Judgement dated 07.03.2018, passed in Civil Appeal No.2013 of 2014 in the case of Union of India & another Vs. M/s.Intercontinental Consultants and Technocrats Pvt. Ltd.

3. In my view, the issue as to whether the 1st respondent is entitled to include the reimbursement of expenses as part of the value of the taxable services, is a decision to be taken by the authorities and this Court by exercising its power under Article 226 of the Constitution of India cannot step into the shoes of the authorities for considering the same. Nevertheless, if the petitioner is of the view that the decision of the Hon'ble Supreme Court referred above is in their favour, it would always be open to them to place such a decision before the authorities for consideration.

4. In the light of the above observations, the petitioner is granted liberty to make an appropriate representation before the 1st respondent herein ventilating his grievances and seeking for exclusion of the reimbursement of expenses from the part of value of the taxable services and on receipt of such a representation, the 1st respondent shall consider the same and pass appropriate orders in the light of the decision of the Hon'ble Supreme Court in the case of Union of India & another Vs. M/s.Intercontinental Consultants and Technocrats Pvt. Ltd. (cited supra). The petitioner is also at liberty to produce any other precedents to substantiate his case. At the time of taking final decision, the 1st respondent shall give due opportunities to the petitioner and pass appropriate orders, as expeditiously as possible, in any event, within a period of 3 months from the date of receipt of such representation.

5. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Deputy Commissioner of
Service Tax, Chennai III Division,
Service Tax Commissionerate,
Ananda Office Centre,
New No.459/Old No.317,
Anna Salai,
Teynampet, Chennai - 600018.

2. The Secretary,
Union of India,
Ministry of Finance,
Department of Revenue,
Central Secretariat,
North Block,
New Delhi - 110001.

+1cc to Mr.Mallika Srinivasan, Advocate SR.No.49224 (06/11/2019)

W.P.No.28365 of 2005
and
M.P.No.1 of 2007

SSD(CO)
CS/25/07/2019