

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 18.07.2019
CORAM
THE HONOURABLE MR.JUSTICE M.S.RAMESH
W.P.No.27449 of 2009
and
M.P.No.1 of 2009

M/s.Sri Ambal & Co.,
Highways Contractor,
79D,Avinashi Road,
Annur 641 653,
Coimbatore District.

.. Petitioner

Vs

- 1.The Union of India,
represented by the Secretary,
Ministry of Finance,
New Delhi.
- 2.The Superintendent (Preventive)
Office of the Commissioner of Central Excise
Headquarters Preventive Unit,
6/7, A.T.D.Street,
Race Course,
Coimbatore-641 018.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the second respondent herein in C.No.IV/06/118/2008-Gr-VI-HPU and quash the proceedings dated 18.12.2009 issued therein.

For Petitioner :Ms.C.Priya
for Mr.B.Raveendran

For Respondents: Mr.K.S.Ramasamy
Central Government Standing Counsel

ORDER

In connection with the investigation towards levy of service tax on the ground that the petitioner is rendering certain taxable service, certain particulars were called for in the impugned notice dated 18.12.2009.

2.The scope of Article 226 of the Constitution of India is very limited to the extent that notice of this nature cannot be questioned unless under a very few exception. The ground raised by the petitioner herein does not fall under any of this definition. As a matter of fact, the petitioner has disputed the

claim of the department that they are providers as well as the recipient of certain service. Such objections could only be considered by the respondents and this Court may not be justified in invoking its power under Article 226 of the Constitution of India for the purpose of quashing the impugned notice. Nevertheless, if the petitioner is granted liberty to put forth his objections, the ends of justice would be secured.

3. In the light of the above observation, the petitioner is granted liberty to give his reply to the impugned notice dated 18.12.2009, calling for liberty within a period of 15 days from the date of receipt of a copy of this order. On receipt of the objections or the particulars furnished by the petitioner herein, the respondent shall endeavour to dispose of the same by passing final orders after giving due opportunity to the petitioner as expeditiously as possible.

4. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

pnn

To

1. The Secretary,
Union of India,
Ministry of Finance,
New Delhi.

2. The Superintendent (Preventive)
Office of the Commissioner of Central Excise
Headquarters Preventive Unit,
6/7, A.T.D. Street,
Race Course,
Coimbatore-641 018.

+1cc to Mr.K.S.Ramasamy, Advocate sr.61366
+1cc to Mr.B.Raveendran, Advocate sr.61649

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nr 30/10/2019