IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.23848 of 2010
and
W.M.P.No.1 of 2010

N.K.Vasudevan
Contractor,
5/365 A Bharathi Nagar Extension,
SIPCOT,
Ranipet 632 403. ... Petitioner

Vs.

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

2.The Assistant Commissioner of Central Excise,
Ranipet Division,
Central Excise Complex,
SIPCOT,
Ranipet 632 403. ... Respondents

Prayer: Writ Petition is filed under article 226 of the Constitution of India, writ of Certiorari, calling for the records relating to the show cause notice C.No.IV/16/316/2009-S.T(ADJ) dated 13.01.2010, of the 2nd respondent, quash the same.

For Petitioner : Mr.R.Saravanakumar

For Respondents : Mr.K.S.Ramasamy

O R D E R

This petition is filed to call for the records relating to the show cause notice C.No.IV/16/316/2009-S.T(ADJ) dated 13.01.2010, of the 2nd respondent and quash the same.

2.The learned counsel for the respondent submits that the issue is covered by the decision of this Court in W.P.No.5156 of 2012 dated 20.07.2018 reads as follows:-

"The petitioner has filed this writ petition challenging the order passed by the first respondent dated 27.01.2012. The issue pertains to demand of service Tax from the petitioner under the category of "Management, Maintenance and Repair Services". The Revenue does not dispute the fact that in terms of Section 97 of the Finance Act, 1994, as inserted by Finance Act 23/12 dated 28.05.2012, there is an expression that in respect of Management Maintenance and Repair Services, no service tax shall be levied or collected. The said provision reads as follows:-

97.Special Provision for exemption in certain cases relating to management etc., of roads

(1)Notwithstanding anything contained in Section 66, no service tax shall be levied or collected in respect of management, maintenance or repair of roads, during the period on and from the 16th day of June, 2005 to the 26th day of July, 2009 (both days inclusive)."

3.The period for which service Tax has been claimed from the petitioner is from 16.06.2005 to 30.09.2008, which falls within the said period during which the legislature has granted exemption. Thus, the impugned order is liable to be set aside.

In the result, the writ petition is allowed and the impugned order dated 27.01.2012 is quashed. No costs. Consequently, the connected Miscellaneous Petition is closed."

3.The issue being squarely covered in favor of the petitioner, the respondent is directed to pass an appropriate order in the impugned show cause notice in terms of the decision of this Court in W.P.No.5156 of 2012.

4.Accordingly, the Writ Petition is closed with the above observations. No costs. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy//

Sub Assistant Registrar

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To

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

2.The Assistant Commissioner of Central Excise,
Ranipet Division,
Central Excise Complex,
SIPCOT,
Ranipet 632 403.

+1cc to Ms.E.Veda Bagath Singh, Advocate, SR.No.101578.
+1cc to Mr.K.S.Ramasamy, Advocate, SR.No.101037.

W.P.No.23848 of 2010
and
W.M.P.No.1 of 2010

CP(CO)
CSR: 29.1.2020