IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition Nos.3470 and 3471 of 2011
and M.P.Nos.2 and 2 of 2011

Shanmuga Sundaram ...Petitioner in W.P.No.3470 of 2011
V.Thangavel ...Petitioner in W.P.No.3471 of 2011

Vs.

1. Union of India,
rep. By the Secretary,
Ministry of Finance,
Department of Revenue,
Govt. of India, North Block,
New Delhi - 110 001.

2. The Assistant Commissioner of Central Excise,
Office of the Assistant Commissioner of Central Excise,
(Karaikal Division), Karaikal,
Puducherry Union Territory

3. The Superintendent of Central Excise,
Tiruvarur Range,
12-A Kumaran Koil Street,
Tiruvarur. ... Respondents in both W.Ps

Prayer: PETITIONs filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorari calling for the records of the second respondent in C.No.IV/16/04/2010 and C.No.IV/16/05/2010 S.Tax order in original No.12/2010 and 15/2010 (Service Tax) dated 27.09.2010 and connected order of corrigendum in No.IV/16/04/2010 and C.No.IV/16/05/2010 and S.Tax dated 7.10.2010 and quash both as unconstitutional, illegal.

For Petitioner : Mr.S.Rajesh

For Respondents : Mrs.R.Hemalatha
Senior Standing Counsel - R2 and R3
No appearance - R1
in Both WPs.

COMMON ORDER

The petitioners in both Writ Petitions challenge orders – in – original passed by the Assistant Commissioner of Central Excise and a Corrigendum thereto dated 27.09.2010 and 07.10.2010 respectively, seeking a quash of the same.

2. Heard Mr.S.Rajesh, learned counsel for the petitioner and Mrs.R.Hemalatha, learned Senior Standing Counsel for respondent Nos.2 and 3. Even though notice has been served on the first respondent, none appears.

3. Neither infirmity in law nor perversity in fact in the impugned order has been pointed out by the learned counsel for the petitioner. Moreover, the impugned order is amenable to statutory appeal and I am thus of the considered view that this is not a fit case for by passing of an alternate remedy.

4. These Writ Petitions are thus dismissed with liberty as sought for permitting the petitioner to avail remedy of statutory appeal before the Commissioner of Service Tax (Appeals). Such appeal, if filed within a period of four (4) weeks from date of receipt of a copy of this order, shall be admitted for hearing on merits without reference to limitation. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

5. No objection is expressed by the learned Senior Standing Counsel for the Revenue for the liberty so granted.

Sd/-

Assistant Registrar(C.S.VIII)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary, Union of India, Ministry of Finance, Department of Revenue, Govt. of India, North Block, New Delhi - 110 001.

2. The Assistant Commissioner of Central Excise, Office of the Assistant Commissioner of Central Excise, (Karaikal Division), Karaikal, Puducherry Union Territory

3. The Superintendent of Central Excise, Tiruvarur Range,12-A Kumaran Koil Street, Tiruvarur.

+2cc to M/s.R.Hemalatha, Advocate Sr.No.79890 & 79891

AKM/28.01.2020/2P-6C /

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and M.P.Nos.2 and 2 of 2011