



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2019

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.25929 of 2013

and

M.P.No.1 of 2013

A.Amirtharaj

... Petitioner

Vs.

1.The Commissioner,
Cuddalore Municipality,
Cuddalore-1.

2.The Assistant Commissioner of Central Excise,
No.1, Vallalar Nagar,
Manjakuppam, Cuddalore-607 001.

... Respondents

(R2 - Impleaded as per order dated
04.10.2013 in MP.No.2/2013 in WP.No.25929/2013)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, to call for the records of the respondent dated 27.08.2013 in Na.Ka.No.10937-11-A2, quash the same.

For Petitioner : Mr.N.C.Ramesh, Senior Counsel
for Mr.S.Ganesh

For Respondents : Mr.A.S.Thambuswamy (for R1)
Mr.V.Sundareswaran (for R2)
Senior Counsel

ORDER

The petitioner has challenged proceedings dated 27.08.2013 of the Commissioner, Cuddalore Municipality, calling upon him to pay service tax in respect of the service of running a bus stand, that is, according to him, taxable. The petitioner contends that the services rendered by him do not come within the ambit of Finance Act, 1994 and are not liable to tax. This position is, in fact, confirmed in favour of the petitioner by a Circular issued by the Commissioner of Municipal Administration bearing No.13052/2016/D2 dated 03.05.2017, whereunder the Commissioner informs all authorities under his jurisdiction that fee for bus stand is exempt from the collection of service tax.



2.This Court, by order dated 17.09.2013, had directed the petitioner to remit 25% of the impugned demand as a pre-condition for the grant of interim stay and the petitioner had duly deposited a sum of Rs.1,08,838/-. He is now, in the light of my conclusion as above, entitled to refund of the aforesaid amount after adjusting any other arrears or dues from him, in accordance with law. This exercise shall be completed within a period of four weeks from date of receipt of a copy of this order.

3.The impugned demand is set aside and this writ petition, allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

vs

To

1.The Commissioner,
Cuddalore Municipality,
Cuddalore-1.

2.The Assistant Commissioner of Central Excise,
No.1, Vallalar Nagar,
Manjakuppam, Cuddalore-607 001.

+1cc to Mr.V.Sundareswaran, Advocate, SR.No.87690.
+1cc to Mr.S.Ganesh, Advocate, SR.No.87433.

W.P.No.25929 of 2013
and
M.P.No.1 of 2013

RK(CO)
CSR: 10/01/2020