IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Appeal No.970 & 972 of 2019
and
C.M.P.No.7268 & 7269 of 2019

Shree Vijayalakshi Charitable Trust,
Rep by its Managing Trustee
A.Senthil Kumar ...Appellant/Petitioner in both the appeals

-vs-

1. Union of India
Rep by its Secretary to Government of India,
Finance Department, New Delhi - 110 001.

2. Central Board of Excise and Customs,
Department of Revenue, Ministry of Finance,
New Delhi - 110 008.

3. The Commissioner of Central Excise and Service Tax,
6/7, A.T.D. Street, Race Course Road,
Coimbatore - 641 018.

...Respondents/Respondents in both the appeals

Writ Appeals filed under Clause 15 of Letters Patent against the orders passed by this Court in W.P.Nos.33925 & 33924 of 2015 both dated 23.10.2018.

W.P.Nos.33925 of 2015:-

Writ Petition filed under Article 226 of the Constitution of India, seeking writ of declaration Declaring that the transactions involved in terms of the said two unregistered agreements dated 29.01.2010 and 17.05.2010 do not establish rendering of any service much less the taxable service and it is also not provided by the petitioner trust consequently issuance of show cause notice C.No.V/RIS/15/86/2014-ST.Adj. SCN Sl.No.16/2014-Commr dated 08.08.2014 issued by the 3rd respondent proposing to demand service tax from the petitioners trust for the period from January 2013 to August 2013 is unlawful and opposed to constitutional proprietary and further forbearing the 3rd respondent from adjudicating upon the impugned show cause notice dated 08.08.2014.

W.P.Nos.33924 of 2015:-

Writ Petition filed under Article 226 of the Constitution of India, seeking writ of declaration declaring that the transactions involved in terms of the said two unregistered agreem ents dated 29.01.2010 and 17.05.2010 do not establish rendering of any service much less the taxable service and it is also not provided by the petitioner trust consequently issuance of show cause notice dated 27.03.2015 issued by the 3rd respondent proposing to demand service tax from the petitioners trust for the period from 01.09.2013 to 31.03.2014 is unlawfull and opposed to constitutional properietary and further forbearing the 3rd responbdent from adjudicating uppon the impugned show cause notice dated 27/03/2015.

For appellant : Mr.Ramabathram for
Mr.Lakshmi Kumaran (in both appeals)

For Respondents: Mr.A.P.Srinivas
Senior Standing Counsel
(in both appeals)

COMMON JUDGMENT

(Judgment of the Court was delivered by T.S.Sivagnanam, J.)

These appeals have been filed by the writ petitioner challenging the order and direction in W.P.Nos.33925 & 33924 of 2015 dated 23.10.2018.

2. The said writ petitions were filed by the appellant seeking for a declaration declaring that the transactions involved in terms of the said two unregistered agreements dated 29.01.2010 and 17.05.2010 do not establish rendering of any service much less the taxable service and it is also not provided by the petitioner Trust consequently issuance of show cause notices dated 08.08.2014 and 27.03.2015 issued by third respondent proposing to demand service tax from the petitioners Trust for the period from January 2013 to August 2013 and from the period 01.09.2013 to 31.03.2014 respectively are unlawful and opposed to constitutional proprietary and further forbearing the third respondent from adjudicating upon the impugned show cause notices.

3. The learned writ Court elaborately considered the submission and pointed out that the writ petitions challenging

show cause notice cannot be entertained. We have perused the reasons given by the writ Court in paragraphs 7 to 10 of the impugned order. We find that the reasons assigned by the writ Court for not entertaining the writ petition is just and proper.

4. For the above reasons, we find no good grounds to interfere with the order passed by the writ Court. Accordingly, the writ appeal fails and dismissed. It is well open to the appellant to canvas all grounds that may be available to them on law as well as on facts before the original authority. The respondents are directed to grant additional time to enable the appellant to submit their reply to the show cause notice.

4. In the result, the writ appeal is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mrm

To

1. The Secretary to Government of India,
   Finance Department, New Delhi - 110 001.

2. Central Board of Excise and Customs,
   Department of Revenue, Ministry of Finance,
   New Delhi - 110 008.

3. The Commissioner of Central Excise and Service Tax,
   6/7, A.T.D. Street, Race Course Road,
   Coimbatore - 641 018.

+2cc to Mr.Lakshmi Kumaran, Advocate, S.R.No.27052

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GJ(CO)
CS/13/05/2019