IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 09.12.2019
CORAM
THE HONOURABLE DR. JUSTICE ANITA SUMANTH
W.P.No.29265 of 2018
& WMP.No.34192 of 2018

Academy of Maritime Education and Training Trust
Represented by its managing Trustee
Mrs.Susheela Ramachandran ...Petitioner

--Vs--

1.The Commissioner of GST & Central Excise (Appeals-I),
Office of the Commissioner of GST & Central Excise (Appeals-I),
No.26/1, Mahatma Gandhi Marg,
Nungambakkam,
Chennai-600 034
2.Additional Commissioner,
Office of the Commissioner of GST & Central Excise
North Commissionerate
Nwry Towers, No.2054-I, II Avenue,
Annanager, Chennai 600040 ...Respondents

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Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ or order of direction or any other Writ in the nature Writ of Certiorari, calling for the records in order in Appeal No.355/2018 (CTA-1) dated 13.07.2018, passed by the first respondent and quash the same as arbitrary and illegal.

For Petitioner : Mr.Joseph Prabakar
For Respondents : Mr.S.R.Sundar
Senior Standing Counsel

O R D E R

The petitioner challenges order dated 13.07.2018, passed by the Commissioner of GST and Central Excise (Appeals-I)/R1.

2. The short point argued by Mr.Joseph Prabakar, learned counsel for the petitioner, is that, at paragraphs 6.4 and 6.5 of the impugned order, R1 refers to an order passed by a learned Single Judge of this Court in W.P.No.13615 of 2014, dismissing a writ petition filed by this petitioner wherein an observation is

made to the effect that the petitioner is an institution imparting training to students in various activities.

3. Order dated 03.07.2014 has been subsequently modified by the learned Judge on 02.09.2014, wherein he clarifies that the petitioners' appeal shall be considered by the appellate authorities without being influenced by the observations made by him in order dated 03.07.2014.

4. Both the petitioner and the revenue have been heard by R1 and admittedly, the order of subsequent modification dated 02.09.2014, was not produced before the appellate authority. Thus, the appellate authority cannot be faulted for quoting the said order.

5. However, reference to the order is only in general terms, and appears incidental. The specific argument of the petitioner, in regard to recognition of the institution under law for the time being in force, appears to have been considered independently and decided and there is no reference to order dated 03.07.2014 in that portion of the order.

6. Thus, I am of the view that the petitioner may well file an appeal before the Customs Excise and Service Tax Appellate Tribunal (CESTAT), within two weeks from date of receipt of a copy of this order and the CESTAT, while dealing with the appeal in accordance with law, shall, taking note of the modification order passed by the learned Single Judge on 02.09.2014, dispose the appeal uninfluenced by any observations made on 03.07.2014. The appeal, if filed within the time frame stipulated above, shall be received by the Registry without reference to limitation and heard in accordance with law.

7. This writ petition is dismissed granting liberty as above. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/
Sub Asst. Registrar

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To
1.The Commissioner of GST & Central Excise (Appeals-I),
Office of the Commissioner of GST & Central Excise (Appeals-I),
No.26/1, Mahatma Gandhi Marg,
Nungambakkam,
Chennai-600 034
2.Additional Commissioner,
Office of the Commissioner of GST & Central Excise
North Commissionerate
Nwry Towers, No.2054-I, II Avenue,
Annanager, Chennai 600040

+1 cc to Mr.Joseph Prabakar Advocate sr102396
+1 cc to Mr.S.R.Sundar Advocate sr103375

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