



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2019

CORAM

WEB COPY

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P (MD) Nos.16233 of 2013
and M.P (MD) No. 1 of 2013

M.Arun
Director
M/s.Kaleesuwari Refinery Private Limited ... Petitioner

Vs.

The Senior Intelligence Officer,
O/o Directorate General of Central Excise,
Intelligence,
Madurai Regional Unit. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari to call for the records of the respondent in F.No.INV/DGCEI/MRU/09/2010/3412 and quash the proceedings dated 26.09.2013 issued therein.

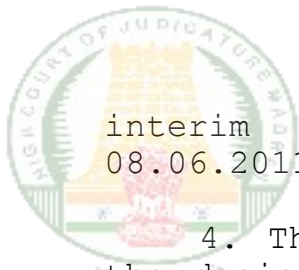
For Petitioner : Mr.S.Raja Jeya Chandra Paul
For Respondent : Mr.R.Aravindhan

O R D E R

The writ petition has been filed challenging the summons issued under Section 14 of the Central Excise Act dated 26.09.2013 calling upon the petitioner to appear in person and to produce various documents.

2. The issue in question relates to levy of service tax on Intellectual Property Services(IPR) in terms of Section 65(105) (zzr) of the Finance Act, 1994. Learned counsel for the petitioner states that the petitioner had challenged the constitutionality of Sections 65(55b) and 65(105) (zzr) of the Finance Act, 1994 in W.P. (MD) No.13176 of 2011 and the said writ petition is pending before the Principal Seat of this Court. Pending writ petition, this Court, vide order dated 08.06.2011, has granted an order of interim injunction restraining the Department from levying or collecting service tax on the transfer or right to use IPR.

3. However a Division Bench sitting in the Principal Seat of this Court, in *AGS Entertainment Private Limited, Chennai -83 Vs. Union of India, New Delhi* and batch (2013(4) CTC 473) has upheld the constitutionality of the levy. I am thus of the view that the



interim injunction granted by the learned single Judge on 08.06.2011 would have no force as on date.

4. Though the learned counsel for the petitioner states that the decision of the Division Bench (supra) has been challenged by several petitioners before the Supreme Court, no stay has been granted. Under such circumstances, the prevailing position of law is as per the order of the Division Bench in the aforesaid decision. In this view of the matter, there is no merit in this writ petition.

5. The petitioner will appear before the respondent on 01.08.2019 in response to summons dated 14.09.2013. Upon hearing the petitioner, the Assessing Authority shall finalize the proceedings in accordance with law and in compliance with the principles of natural justice.

6. This writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(AD-I)

// True Copy //

Sub Assistant Registrar(CS)

CM

To
The Senior Intelligence Officer,
O/o Directorate General of Central Excise,
Intelligence,
Madurai Regional Unit.

+1CC TO MR.S.RAJA JEYA CHANDRA PAUL, Advocate Sr. No. 75527

W.P(MD)Nos.16233 of 2013
and M.P(MD)No. 1 of 2013
15.07.2019

KM(CO)
TR (22.07.2019) 2P 3C