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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2019

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)No.2921 of 2014

A.Shanmugavel ... Petitioner

Vs.

1.The Assistant Commissioner of Central Excise
Service Tax Unit,
Virudhunagar Division,
130/8-1, Katcheri Road,
Virudhunagar - 626 001.

2.The Superintendent of Central Excise,
Sattur Range, Sattur.

3.The Commissioner of Central Excise,
Bibikulam,
Madurai - 625 002.

4.Union of India,
Rep. by its Secretary,
Department of Revenue,
Ministry of Finance,
North Block,
New Delhi.

5.The Superintending Engineer,
General Construction Circle,
Tamil Nadu Electricity Board,
K.Pudur,
Madurai - 625 007. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, calling for the records and quashing the impugned Letter No.435/2013 dated 25.11.2013 and direct the respondents 1 to 3 to extend the benefit of exemption Notification No.1/2006 ST dated 01.03.2006 and Notification No. 45/2010 ST dated 20.07.2010 in respect of Service Tax for the period from 01.05.2006 to 31.05.2007 (i.e.,) prior 01.06.2007 under the category of Erection, Commissioning or Installation services as introduced by the Finance Act under Section

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65 (39a) of the Finance Act read with Section 65 (105)(zzd) of the Finance Act considering the payment of service tax with interest paid by the petitioner already for the period from 01.05.2006 to 31.05.2007 insofar as relating to the petitioner since the collection of service tax in excess, is violative of Articles 14 and 268A of the Constitution of India read with Sections 66 and 93 of the Finance Act.

For Petitioner : Mr.R.Renganathan

For RR 1 to 3 : Mr.S.Gurumoorthy

For R - 4 : Mr.S.Jeyasingh

For R - 5 : S.M.S.Johny Basha

ORDER

There is no merit in this Writ Petition. The prayer is for a Certiorarified Mandamus, challenging the letter dated 25.11.2013. It also seeks a direction to respondents 1 to 3 to extend the benefit of various notifications to grant exemption from the levy of Service Tax on the income from rendition of services by the petitioner.

2.Admittedly, the Order-in-Original in this case has been passed on 26.10.2012 and a corrigendum to the Order-in-Original has been passed on 06.12.2012. These remain unchallenged.

3.The petitioner makes a feeble attempt to state that the impugned orders have not been served on him. However, the impugned orders of assessment are admittedly in the possession of the petitioner and there is nothing to have prevented him from challenging the same.

4.In the light of the orders of assessment having attained finality, challenge to communication dated 25.11.2013 which is only a communication calling upon the petitioner to remit the arrears of service tax raised under the Order-in-Original, cannot stand. Thus, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

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+2 CC to Mr.S.JEYASINGH, Advocate SR-79170.
+1 CC to Mr.S.RANGANATHAN, Advocate SR-78803.

W.P(MD)No.2921 of 2014
30.07.2019

CS(16.09.2019) 3P 9C