BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2019

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THE HON'BLE DR.JUSTICE ANITA SUMANTH

W.P(MD).Nos.5676, 5690, 5693, 5704 and 5988 of 2014
and M.P(MD) Nos. 1,1,1,1,1, 2,2,2,2 and 2 of 2014

Thangaraj & Co
Represented by its Partner
P.Vethakumar ...Petitioner In W.P(MD) Nos.5676/ 2014

Vs.

National Trading Company
Rep by its Partner K. Balan, 11-B,
Kovalan Street, Palayamkottai,
Tirunelveli District-627 002.
... Petitioner(s) in WP(MD). 5690/ 2014

M/s. Shri Krishna Explosives
Rep by its Partner Mr. K. Kamaraj,
297/4, Padmanabhamangalam Village,
Srivaigundam, Tuticorin District-628 601
... Petitioner(s) in WP(MD). 5693/ 2014

Paramount Explosives Company,
Rep. by its Partner Mr.T. Jeyam,
30-B, Thirumoola Nayanar Street,
Palayamkottai - 627 002, Tirunelveli District.
... Petitioner(s) in WP(MD). 5704/ 2014

M/s K.K. Explosives,
Rep. Byits Proprietor K.Kamaraj,
4/229 Thenkulam Village,
Tirunelveli Taluk and District
... Petitioner(s) in WP(MD). 5988/ 2014

- Vs. -

1.Union of India,
Rep. by the Secretary,
Ministry of Finance,
Department of Revenue,
New Delhi.

2.The Superintendent of Central Excise,
Headquarters Preventive Unit,
Office of the Commissioner of Central Excise,
Central Revenue Building,
Tractor Road,
Tirunelveli 627 007. ...Respondents in all WPs

Prayer IN W.P(MD)5676/ 2014 : Writ Petition is under Article 226 of the Constitution of India for issuance of Writ of declaration declaring the job work of the petitioner in the intermediate production process in mining in exempted under para 30-C, of the Mega Notification No.25/2012-service tax dated 20.06.2012 and consequently restrain the respondents from proceeding with the impugned notice of second respondent dated 07.01.2014 in C.No.IV/16/03/2014/HPU and again a remainder dated 29.01.2014 in C.No.IV/16/03/2014/HPU.

Prayer in WP(MD). 5690/ 2014 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Declaration declaring the job work of the petitioner in the intermediate production process in mining is exempted under para 30-C, of the Mega notification no.25/2012-service Tax dated 20.6.2012 and consequently restrain the respondents from proceeding with the impugned notice of 2nd respondent dated 5.12.2013 in C.NO.IV/16/32/2012/HPU and again a remainder dated 23.1.2014 in C.No.IV/16/01/2014/HPU.

Prayer in WP(MD). 5693/ 2014 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Declaration declaring the job work of the petitioner in the intermediate production process in mining is exempted under para 30-C, of the Mega notification no.25/2012-service Tax dated 20.6.2012 and consequently restrain the respondents from proceeding with the impugned notice of 2nd respondent dated 02.01.2014 in C.NO.IV/16/32/2012/HPU.

Prayer in WP(MD). 5704/ 2014 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Declaration, declaring the job work of the petitioner in the intermediate production process in mining is exempted under para 30-C, of the Mega Notification No.25/2012 - service tax dated 20.06.2012 and consequently restrain the respondents from proceeding with the impugned notice of second respondent dated 21.12.2013 in C.No. IV/16/32/2012/HPU and again a remainder dated 24.01.2014 in C.No. IV/16/32/2012/HPU.

Prayer in WP(MD). 5988/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Declaration, declaring the job work of the petitioner in the intermediate production process in mining is exempted under para 30-C of the Mega Notification No. 25/2012 service tax dated 20.06.2012 and consequently restrain the respondents from proceeding with the impugned notice of second respondent dated 02.01.2014 in C.NO. IV/16/32/2012/HPU.

In all writ petitions:

For Petitioners	:	Mr.R.Devaraj
For R1	:	Mr.R.Aravindan Central Government Standing Counsel
For R2	:	Mr.S.Gurumoorthy

C O M M O N O R D E R

These writ petitions have been filed by four different petitioners seeking a declaration to the effect that the activity carried on by the petitioners constitutes 'job work' in the intermediate production process of mining. Such activity, according to the petitioners, is exempted from the levy of service tax in terms of Finance Act, 1994, specifically para 30(c) in Notification 25/2012 - Service Tax dated 20.06.2012.

2. Thus, the petitioners pray that the respondents be restrained from proceeding with the notices dated 07.01.2014 issued by the second respondent, the Superintendent of Central Excise.

3. Despite several opportunities having been granted to the respondents, no counter is forthcoming till date. Thus I proceed to dispose these writ petitions on the basis of the affidavits filed in support of the writ petitions as well as the oral submissions of the parties.

4. I am of the view that the prayer sought for is not liable to be granted insofar as it involves a determination of the exact nature of the activity stated to be carried on by the petitioners and the application of the legal provision to such activity. It is only after such determination that the question of applicability or otherwise of the exemption notification will arise.

5. In the result, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed. However, the petitioners are directed to appear before the second respondent on **Friday** i.e **09.08.2019 at 10.30 a.m.,** without expecting any further notice in this regard. After hearing the petitioners and considering all materials that may be put forth

by them, in response to notices dated 07.01.2014, the respondents will pass reasoned orders of assessment on merits and in accordance with law.

Sd/-

Assistant Registrar()

// True Copy //

Sub Assistant Registrar(CS)

CM /sm

To

1.The Secretary,Union of India, Ministry of Finance, Department of Revenue,New Delhi.

2.The Superintendent of Central Excise,Headquarters Preventive Unit,Office of the Commissioner of Central Excise,Central Revenue Building,Tractor Road,Tirunelveli 627 007.

+4CC TO MR.R.DEVARAJ, Advocate Sr. No. 78616 TO 78619

W.P(MD).Nos.5676, 5690, 5693, 5704 and 5988 of 2014 and M.P(MD) Nos. 1,1,1,1,1, 2,2, 2,2 and 2 of 2014
29.07.2019

MR(CO)
TR (08.08.2019) 4P 7C