BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **24.07.2019**
CORAM:
THE HONOURABLE DR.JUSTICE ANITA SUMANTH
W.P.(MD)No.17974 to 17976 of 2015
and
M.P.(MD)No.1,1 and 1 of 2015

M/s.M.K.R.Brothers' Agency, Divison, (BSNL Franchise),
Represented by its Partner - M.Manikandan,
No.158, Big Bazaar Street,
Pattukkottai,
Thanjavur District. ... Petitioner in all petitions

/Vs./

1. The Assistant Commissioner of Central Excise & Service Tax,
   O/o. The Assistant Commissioner of Central Excise & Service Tax,
   Pon Nagar, Medical College Road, Thanjavur.

2. The Commissioner of Customs & Central Excise (Appeals),
   No.1, Williams Road, Cantonment,
   Tiruchirappalli - 620 001.

3. Bharat Sanchar Nigam Limited,
   (A Govt of India Enterprise),
   Represented by its Chief General Manager Telecom,
   Tamil Nadu Circle, No.80, Anna Salai,
   Chennai - 600 002. ... Respondents in all petitions

COMMON PRAYER:- Writ Petitions - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, forbearing the 1st respondent or his men, subordinates or agents from seeking to levy, collect or enforce any demand with respect to service tax under the head 'Business Auxiliary Services' in terms of Sec.65(19) of the Finance Act 1994 from the petitioner herein in pursuance to the proceedings of the 2nd respondent made vide Order-in-Appeal No.158, 159, 160 /2014 dated 14.10.2014 as the same is wholly without jurisdiction, illegal.

For Petitioner : Mr.S.Karunakar,
Change of vakalat filed.
For Respondents : Mr.S.Gurumoorthy
(in all petitions)

COMMON ORDER

The prayer sought for in the writ petitions, Mandamus forbearing the first respondent from seeking to levy, collect or enforce any demand with respect to service tax under the head 'Business Auxiliary Services' in terms of Sec.65(19) of the Finance Act 1994, cannot be granted.

2. The petitioner has admittedly suffered orders in original that have thereafter travelled in appeal before the second respondent culminating in a common order dated 14.10.2014 that is adverse to the petitioner. The petitioner has not sought a quash of the aforesaid order.

3. In such circumstances, the order is enforceable by the respondent and the Mandamus as sought is dismissed. This Writ Petition is dismissed however granting liberty to the petitioner to file an appeal before the Central Excise and Service Tax Appellate Tribunal, within a period of three weeks from today, along with petition for condonation of delay. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

+1 CC to Mr.K.GOVINDARAJAN, Advocate (SR-77493[F] dated 25/07/2019)
+1 CC to Mr.S.KARUNAKAR, Advocate (SR-77552[F] dated 25/07/2019)

Common Order made in
W.P.(MD)No.17974 to 17976 of 2015
Dated:24.07.2019

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