BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.07.2019**

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

W.P.(MD)Nos.2411, 2412, 2413 & 2414 of 2015
and
M.P.(MD)Nos.1, 1, 1, & 1 of 2015

M/s.M.K.R.Brothers'Agency,
Rep. By its Partner-M.Manikandan,
No.158, Big Bazaar Street,
Pattukkottai,
Thanjavur District. ...Petitioner in all W.Ps.

-Vs-

1.The Joint Commissioner of
Central Excise & Service Tax,
Central Excise Division,
Tiruchirappalli. ... 1st Respondent
in WP(MD) Nos.2411 & 2414 of 2015

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. ... 1st Respondent
in WP(MD) Nos.2412 of 2015

... 1st Respondent
in WP(MD) Nos.2413 of 2015

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.
... 2 & 3 Respondents
in WP(MD) Nos.2411, 2412 & 2413 of 2015

... 2nd Respondent
in WP(MD) No.2414 of 2414 of 2015

Common Prayer: Writ Petitions are filed under Article 226 of Constitution of India, to issue a Writ of Prohibition, prohibiting the first 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 second respondent vide Order-in-Appeal Nos.135/2013, 339/2012, 354/2012, 05/2011 dated 09.12.2013, 29.11.2012, 19.12.2012, 27.05.2011 as the same is wholly without jurisdiction, illegal.

For Petitioner (in all W.Ps.) : Mr.R.Hemalatha

For R1 & R2 (in all W.Ps.) : Mr.S.Gurumoorthy

For R3 : Mr.K.Govindarajan

COMMON ORDER

The prayer sought for in these writ petitions, a 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 passed by the second respondent that is adverse to the petitioner. The petitioner has not sought a quash of the aforesaid order and the same has attained finality as on date.

3. In such circumstances, the demands confirmed by the appellate orders are recoverable by the respondent. The Mandamus, as sought, 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 petitions seeking for condonation of delay. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Joint Commissioner of
Central Excise & Service Tax,
Central Excise Division,
Tiruchirappalli.

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

3.The Commissioner of
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4.Bharat Sanchar Nigam Limited,
(A Govt of India Enterprise)
Represented by its Chief General Manager Telecom,
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Chennai 600 002.

+1 CC to M/s.S.KARUNAKAR, Advocate (SR-78305[F] dated 29/07/2019)

W.P.(MD)Nos.2411 to 2414 of 2015
25.07.2019

gns
JM/22.08.2019/3P/6C