

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH
Writ Petition No.2701 of 2020
and
WMP. Nos.3120 & 3123 of 2020

M/s. Ootacamund Club,
Post Box No.19, Club Road,
Udhagamandalam - 643 001.
Represented by its Secretary,
Oommen Abraham

...Petitioner

Vs.

Additional Commissioner of Customs,
Central Excise and Service Tax,
6/7, A.T.D.Street, Race Course Road,
Coimbatore - 641 018.

... Respondent

PRAYER: PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent contained in its show cause notice bearing No.SL.No.88/2015-ADC dated 16.10.2015 for the period between 01.02.2014 to 31.03.2015 and all proceedings in furtherance thereof, including but not limited to order bearing No.C.No.V/CAS/15/132/2015 dated 07.01.2016, and quash the same as arbitrary, unjust and illegal and to consequently forbear the Respondent from assessing the Petitioner to service tax under the provisions of the Finance Act of 1994.

For Petitioner : Mr.Arun Karthik Mohan

For Respondents: Mr.A.P.Srinivas,

Senior Standing Counsel

O R D E R

The petitioner challenges a show-cause notice (SCN) dated 16.10.2015 that had culminated into order-in-original dated 07.01.2016. This order came to be challenged by the petitioner in W.P. No.8246 of 2016. However, the prayer in the aforesaid Writ Petition was for a quash of the order in relation to C.No.V/CAS/15/112/2014. No relief was sought as against the order-in-original qua SCN in file No.C/V/CAS/15/132/2015. The error appears inadvertent.

2. A learned Single Judge of this Court, while allowing the aforesaid writ petition following the dictum of the Supreme Court in the case of State of West Bengal and others Vs. Calcutta Club Ltd and in Chief Commissioner of Central Excise and Service Tax and another Vs. Ranchi Club Ltd, [2019 SCC Online SC 1291] granted opportunity to the petitioner to work out its remedy against the other demands, in accordance with law. Hence, the present Writ Petition.

3. I am of the view that the non-mentioning of file number No.C/V/CAS/15/132/2015 in W.P. No.8246 of 2016 is an error. Moreover, the issue in question, as fairly admitted by Mr.A.P.Srinivas, learned Senior Standing Counsel, is covered by a judgment of the Supreme Court in State of West Bengal and others Vs. Calcutta Club Ltd and in Chief Commissioner of Central Excise and Service Tax and another Vs. Ranchi Club Ltd (Supra). This Writ Petition is hence allowed. Connected Miscellaneous Petitions are closed. No costs.

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

rkp

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To

Additional Commissioner of Customs,
Central Excise and Service Tax,
6/7, A.T.D.Street, Race Course Road,
Coimbatore - 641 018.

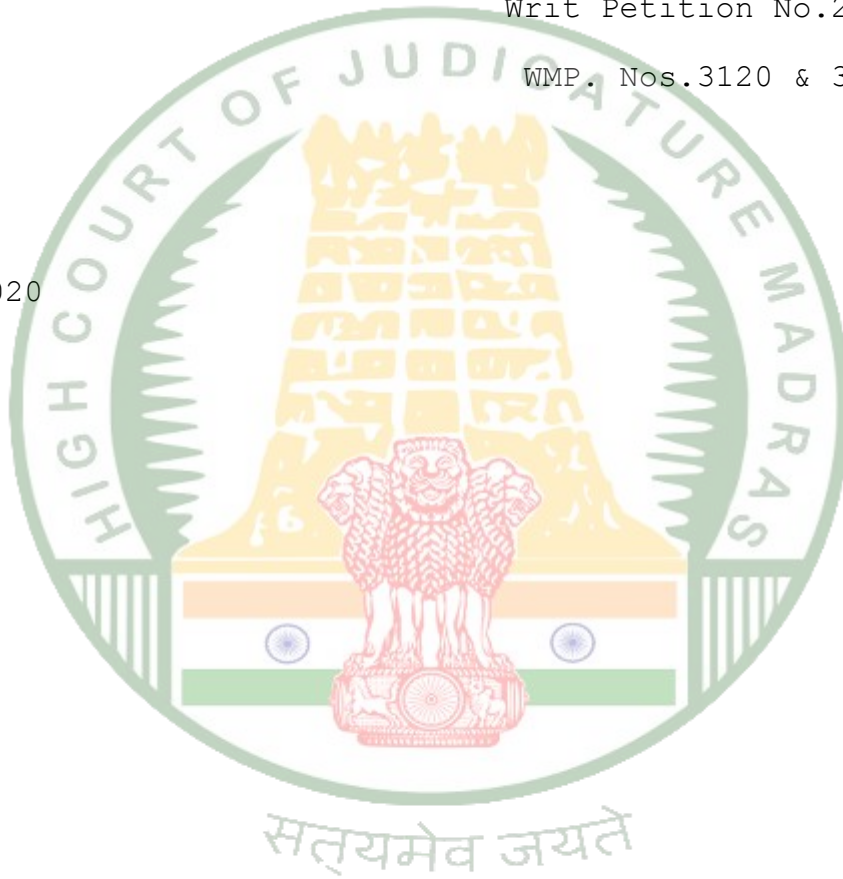
+1 cc to Mr.Arun Karthik Mohan Advocate sr9747

+1 cc to Mr.A.P.Srinivas Advocate sr10089

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