IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 6.11.2020

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.A.No.983 of 2020
and
C.M.P.No.11971 of 2020

S.Shanmuga Sundaram ... Appellant/Petitioner

Versus

1. Union of India
rep. by the Secretary,
Ministry of Finance,
Department of Revenue,
Govt. of India, North Block,
New Delhi 110 001.

2. The Assistant Commissioner of
Central Excise,
Office of the Assistant Commissioner
of Central Excise,
(Karaikal Division),
Karakal, Puducherry Union Territory,

3. The Superintendent of Central Excise,
Tiruvarur Range,
12-A Karumari Koil Street,
Tiruvarur. ... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 17.9.2019 in W.P.No.3470 of 2011 passed by this court.

Prayer in W.P.No.3470 of 2011:

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to Calling for the records of the second respondent in C.No. IV/16/04/2010 and C.No.IV/16/05/2010 S.Tax order in original No.12/2010 and 15/2010 (Service Tax) dated 27.09.2010 and connected order of Corrigendum in No. IV/16/04/2010 and C.No.IV/15/05/2010 and S.Tax dated 7.10.2010 and quash both as unconstitutional illegal.

For Appellant : Mr.S.Rajesh

For Respondents : Ms.R.Hemalatha,
Senior Standing Counsel

JUDGMENT

(Judgment of the court was made by Dr.VINEET KOTHARI, J.)

Heard the learned counsel Mr.S.Rajesh appearing for the Appellant/Assessee and Ms.R.Hemalatha, learned Senior Standing Counsel appearing for the Respondents/Revenue.

2. The present Writ Appeal is directed as against the order dated 17.9.2019 of the learned Single Judge dismissing the Writ Petition filed by the Petitioner/Assessee, only on the ground of alternative remedy available to the Petitioner before the learned Commissioner of Service Tax (Appeals) against the Assessment order dated 27.9.2010 whereby the demand of Rs.3,06,606/- towards Service Tax including the Education Cess thereon was imposed by the Assistant Commissioner concerned.

3. The only point raised before us in the intra-court Appeal is that the Assessee could not file the Appeal within the prescribed time limit of 4 weeks as granted by the learned Single Judge due to overriding reasons and indulgence is now sought to file the said Appeal before the Commissioner within 4 weeks from now.

4. The learned Senior Standing Counsel appearing for the Respondents/Revenue Department submitted that payment or deposit of the demand should be directed to be made as the Assessee already delayed the filing of the Appeal and therefore, no indulgence should be given on the said ground.

5. Having heard the learned counsel for the parties, we are of the opinion that the time limit given by the learned Single Judge does not deserve to be extended except subject to the condition of deposit of 50% of the demand under the impugned order dated 27.9.2010.

6. We accordingly direct that subject to deposit of Rs.1,50,000/- by the Petitioner/Assessee within 4 weeks from today and filing of the Appeal within 4 weeks from today, the Appeal may be heard and decided on merits in accordance with law by the Commissioner of Service Tax (Appeals). With this observation, the Writ Appeal is disposed of. No costs. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssk.
To:

1.The Secretary,
Union of India
Ministry of Finance,
Department of Revenue,
Govt. of India, North Block,
New Delhi 110 001.

2. The Assistant Commissioner of
Central Excise,
Office of the Assistant Commissioner
of Central Excise,
(Karaikal Division),
Karakal, Puducherry Union Territory,

3. The Superintendent of Central Excise,
Tiruvarur Range,
12-A Karumari Koil Street,
Tiruvarur.

+1cc to M/s.S.Sivanandam, Advocate Sr.36285

W.A.No.983 of 2020

bp[co]
srg 20/11/2020