

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 42417 of 2016  
and  
W.M.P. No. 36297 of 2016

M/s. AIM Associates Pvt. Ltd.,  
Rep. by its Director,  
E.Kumanan  
No.31A, Narasimhapuram,  
Mylapore,  
Chennai-600 004.

...Petitioner

-vs-

1.The Union of India,  
Rep. by its Secretary to Government,  
Ministry of Finance,  
Department of Revenue,  
New Delhi,

2.The Commissioner of Service Tax,  
MHU Complex - VI Floor,  
No.692, Anna Salai,  
Nandanam,  
Chennai - 600 035.

3.The Assistant Commissioner of Service Tax,  
ST IV, Division II, Commissionerate  
Newry Rower, Plot No.2054, I Block  
12<sup>th</sup> Main Road, Anna Nagar,  
Chennai - 600 040.

4.The General Manager,  
Southern Railways  
Chennai - 600 003.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus (a) forbearing the Respondents 1 to 3 from making any demands on the Petitioner for payment of service tax towards the Petitioner's facilitating the sale of the advertisement space of the 4<sup>th</sup> Respondent without taking any action on the 4<sup>th</sup> Respondent for payment of such service tax; (b) to direct the 4<sup>th</sup> Respondent herein to pay to the Petitioner a sum of Rs.13,48,959/- which the Petitioner has so far paid towards the demands made by the

Respondents 1 to 3 by way of service tax and interest for the Petitioner's facilitating the sale of advertisement space of the 4<sup>th</sup> Respondent together with such reasonable interest as may be ordered by this Court.

For Petitioner : Mr. P.Tamilselvi  
For Mr. K.S.Natarajan

For Respondents : Mr. A.P.Srinivas,  
Senior Standing Counsel (For R1 to R3)  
: Mr. Siddharth Bahety (For R4)

O R D E R  
(through video conference)

Heard Mrs. P.Tamilselvi, Learned Counsel appearing for the Petitioner and Mr. A.P.Srinivas, Learned Senior Standing Counsel appearing for the First to Third Respondents and Mr. Siddharth Bahety, appearing for the Fourth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition had been filed to forbear the First to Third Respondents from making any demand on the Petitioner for payment of service tax towards the facilitating the sale of the advertisement space of the Fourth Respondent without taking any action on the Fourth Respondent for such service tax and to direct the Fourth Respondent to pay to the Petitioner the sum of Rs.13,48,959/- which the Petitioner has so far paid towards the demands made by the First to Third Respondents by way of service tax and interest for facilitating the sale of advertisement space of the Fourth Respondent together with reasonable interest.

3. It is brought to the notice of this Court by the Learned Senior Standing Counsel appearing for the First to Third Respondents that the Petitioner had already filed an appeal under Section 86 of the Finance Act, 1994, before the Customs Excise and Service Tax Appellate Tribunal (hereinafter referred to as the 'CESTAT' for short), which is pending, and in respect of the condition of the pre-deposit for entertaining such appeal, this Court by an order dated 04.09.2016 in C.M.A. No. 1971 of 2014, had required the Petitioner to pay a sum of Rs.2,00,000/-, and as such, it is for the Petitioner to work out its rights for the reliefs sought in the pending appeal before the CESTAT.

4. Having regard to the aforesaid submissions made, there is no necessity for this Court to consider the claim made by the Petitioner in the Writ Petition, inasmuch as the Petitioner is not precluded from claiming necessary relief, either interim or

final, in the pending appeal before the CESTAT in the manner recognized by law.

Accordingly, the Writ Petition is disposed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Msm/dm

To

- 1.The Union of India,  
Rep. by its Secretary to Government,  
Ministry of Finance,  
Department of Revenue,  
New Delhi,
- 2.The Commissioner of Service Tax,  
MHU Complex - VI Floor,  
No.692, Anna Salai,  
Nandanam,  
Chennai - 600 035.
- 3.The Assistant Commissioner of Service Tax,  
ST IV, Division II, Commissionerate  
Newry Rower, Plot No.2054, I Block  
12<sup>th</sup> Main Road, Anna Nagar,  
Chennai - 600 040.
- 4.The General Manager,  
Southern Railways  
Chennai - 600 003.

+lcc to Mr.K.S.Natarajan, Advocate, SR.No.33829

+lcc to Mr.A.P.Srinivas Seniority Standing Counsel, SR.No.33717

W.P. No. 42417 of 2016

SPD(CO)  
KKV/04/11/2020