

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 12.10.2020
CORAM
THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU
W.P. No. 23384 of 2014
and
W.M.P.No. 2 of 2014

Punjab National Bank,
Represented by its Manager
Nungambakkam Branch,
Uttamar Gandhi Salai,
Chennai - 600 034.

... Petitioner

-vs-

1. The Commissioner,
Office of the Commissioner of Service Tax,
Service Tax Commissionerate, Newry Tower,
2045-I, II Avenue, Anna Nagar, Chennai-40.
2. The Deputy Commissioner,
Office of the Commissioner of Service Tax,
Service Tax Commissionerate, Newry Tower,
2045-I, II Avenue, Anna Nagar, Chennai-40.
3. Aruna Hotels Ltd.,
Represented by its Managing Director,
Mr.M.Sivaram,
Having Office at No.144 & 145, Sterling Road,
Nungambakkam, Chennai-34.
4. The Specialty Restaurant Pvt. Ltd.,
Having Office at No.145, Sterling Road,
Nungambakkam, Chennai-34.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records and quash the summon No.193 of 2014 dated 14.08.2014 issued by the Superintendent Service Tax of the Office of the First Respondent.

For Petitioner : Mr. M.L. Ganesh

For Respondents: Mr. M.Santhana Raman (For R1 to R2)
: Mr. C.V.Kumar (For R3)
: Mr. Vivek Menon (For R4)

O R D E R
(through video conference)

Heard Mr. M.L. Ganesh, Learned Counsel for the Petitioner, Mr. M.Santhana Raman, Learned Counsel for the First and Second Respondents, Mr. C.V.Kumar, Learned Counsel for the Third Respondent and Mr. Vivek Menon, Learned Counsel for the Fourth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the order in summon no. 193 of 2014 dated 14.08.2014 issued by the First Respondent which is in the nature of Show Cause Notice for which the Petitioner has been required to attend an enquiry for giving evidence and documents required in connection with the investigation / verification / alleged offence of Service Tax duty evasion. The consistent legal position has been reiterated by the Hon'ble Supreme Court of India in Special Director -vs- Mohammed Ghulum Ghouse [(2004) 3 SCC 440], Secretary, Ministry of Defence -vs- Prabhash Chandra Miradha (AIR 2012 SC 2250) and Life Insurance Corporation of India -vs- A.Masilamani [(2013) 6 SCC 530] that a show cause notice cannot be challenged before completion of enquiry and the proceedings cannot be interfered with in the interregnum till it reaches its logical conclusion.

3. Having due regard to the aforesaid legal position, as there is nothing which precludes the Petitioner from raising the contentions in this Writ Petition in the enquiry to be conducted by the First Respondent, who is bound to deal with the same before coming to any ultimate conclusion, there is no necessity for this Court to interfere at this pre-mature stage of the matter.

4. It is incumbent upon the Petitioner to submit its explanation with all supporting documents and comply with the requirements as sought in the impugned summon by 30.11.2020. The First Respondent shall, after affording full opportunity of hearing to the Petitioner, duly consider the contentions of the Petitioner, deals with the each of the contentions raised and take a reasoned decision on merits and in accordance with law and communicate the same under written acknowledgment. In the event of any decision entailing adverse civil consequences, the Petitioner is not precluded from availing the legal remedies for necessary relief before the proper forum in the manner recognized by law. Though obvious, it is made clear that no view has been expressed by this Court on the correctness or otherwise on the merits of the controversy involved in this matter.

In fine, the Writ Petition is disposed with the aforesaid clarifications. Consequently, the connected Miscellaneous Petition is closed. No costs.

-s/d-
Assistant Registrar

True copy
Sub-Assistant Registrar

maya/dm

To

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