IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2020

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.33181 & 33182 of 2019
and WMP.Nos.33629, 33628, 33623 & 33625 of 2019

M/s. Micky Mouse Recreation Club
Represented by its Secretary S. Ramesh
No. 417/1-4 Sampath Nagar Perundurai Road
Erode 638 011. ..Petitioner in both WPs

Vs.

The Assistant Commissioner (ST)
Thindal Assessment Circle, Thindal,
Erode. ..Respondent in both WPs

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus to call for the records of the respondent in VAT No. 33682903461 / 2018-19 and VAT No. 33682903461 / 2019-20 dated 13.08.2019 respectively quash the same as ultravires of the provisions of the Tamilnadu Value Added Tax Act 2006 and further direct the respondent to refund the amount of tax paid by the petitioner in view of the decision rendered by the Apex Court in the case of state of West Bengal and Others Vs Calcutta Club Limited and others reported in MANU / SC / 1367 / 2019 dated 03.10.2019.

For Petitioner : Mr.V.Sundareswaran

For Respondent : Mr. Mohammed Shafiq, SGP

COMMON ORDER

Heard Mr.V.Sundareswaran, learned counsel for the petitioner and Mr.Mohammed Shafiq, learned Special Government Pleader for the respondent.

2. The issue concerns liability to service tax under Finance Act, 1994, on a recreation Club. Both learned counsel would confirm that this issue stands covered in favour of the assessee/petitioner following the ratio of the judgment of the

Supreme Court in the case of State of West Bengal Vs. Calcutta Club Limited [2019 GSTL 545 (SC)].

3. The initial objection raised by Mr.Shaffiq, learned SGP to the effect that the impugned order have been subject to statutory appeal/revision does not survive any longer in the light of the letters filed by the assesse before the Appellate Authority and Joint Commissioner dated 30.01.2019 and 12.08.2020 respectively seeking withdrawal of the appeal and revision.

4. The impugned orders are quashed and the matters remanded to the file of the Assessing Officer to be redone de novo following ratio of the judgment as aforesaid. These writ petitions are allowed in the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (ST)
Thindal Assessment Circle, Thindal,
Erode.

+1cc to Special Government Pleader, S.R.No.26870

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KS(CO)

KKV/25/08/2020