IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.19638 of 2017
and
W.M.P.No.21209 of 2017

M/s.Ootacamund Club,
Represented by its Secretary,
Mr.Jimmy Kamdin,
Post Box No.19,
Ooty 643 001. ... Petitioner

Vs.

The Assistant Commissioner of Central GST &
Central Excise,
Coonor Division,
No.65, Brook Land Main Road,
Lord Hobart Road,
Quill Hill, Coonoor – 643 101. ... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, call for the records of the Respondent contained in its order bearing C.No.V/CMSS/30/16/2015 St Adj dated 13.07.2017, and to quash the same and to consequently direct the Respondent to forbear from assessing the Petitioner to service tax under the Provisions of the Finance Act of 1994.

For Petitioner : Mr.Suhrith Parthasarathy

For Respondent : Mr.A.P.Srinivas
Standing Counsel

O R D E R

Heard the learned counsel for the petitioner and the learned counsel for the respondent.

2.The petitioner has challenged the impugned Order dated 13.07.2017 passed by the respondent in bearing reference C.No.V/CMSS/30/16/2015 ST Adj. By the impugned order, the respondent has confirmed a demand of Rs.14,02,815/- as a service tax due from the petitioner for the service rendered during the period between 01.04.2015 to 31.03.2016 under Section 73(2) of the Finance Act, 1994. Apart from confirming the aforesaid demand of service tax due from the petitioner, the respondent Assistant Commissioner has also imposed penalty of Rs.1,40,281/- under Section 76 of the said Act and Rs.10,000/- under Section 77(2) of the said Act.

3.The issue, as to whether the petitioner has liable to pay the service tax or not is now covered by a decision of the Hon'ble Supreme Court in the case of State of West Bengal Vs. Calcutta Club Limited, 2019 SCC Online SC 1291. For earlier periods between 01.10.2008 and 31.01.2014 and between 01.02.2014 and 31.03.2015, an order has been passed by this Court on 17.12.2019 in petitioner's own case in W.P.No.8246 of 2016 following the decision of the Hon'ble Supreme Court in the case of State of West Bengal and others Vs Calcutta Club Ltd and Chief Commissioner of Central Excise and Service Tax and Another Vs Ranchi Club Ltd, 2019 SCC Online SC 1291.

4.Therefore, the Writ Petition stands allowed in the light of decision of the Hon'ble supreme Court in State of West Bengal case (Supra) and the decision of this Court in petitioner's own case in W.P.No.8246 of 2016. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

The Assistant Commissioner of Central GST & Central Excise,
Coonor Division,
No.65, Brook Land Main Road,
Lord Hobart Road,
Quill Hill, Coonoor - 643 101.

+1cc to Mr.A.P.Srinivas, Advocate SR.No.16314

+1cc to Mr.Arun Karthik Mohan, Advocate SR.No.16959

W.P.No.19638 of 2017
and
W.M.P.No.21209 of 2017

NR(CO)
GMY(01/07/2020)