IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.27712 of 2010
and M.P.No.1 of 2010

1. ONGC Civil Contractors Association Nagapattinam,
   Rep. By its Secretary, M.Sekar,
   Registration No.14/2009,
   2A/3, Sankara Vinayagar Koil Street
   Vellipalayam, Nagapattinam 611 001.

2. Premier Constructions,
   Rep. By its Proprietor, M.Sekar,
   92, Venkatesa Street,
   Chinthadripet, Chennai 600 002. ..Petitioners

Vs.

1. Union of India,
   Rep. By its Secretary,
   Ministry of Finance,
   North Block, New Delhi.

2. The Commissioner of Service Tax,
   Service Tax Commissionerate,
   692, MHU Complex,
   Nandanam, Chennai 600 035.

3. The Superintendent (Service Tax),
   692, MHU Complex,
   Nandanam, Chennai 600 035.

4. Oil and Natural Gas Corporation,
   Rep. By its Secretary,
   Tel Bhavan, Dehra Dun 248 003.

5. The Asset Manager,
   Oil and Natural Gas Corporation,
   Neravi, Karaikal. ..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring that Section 65 (30a), 65(105) (zzq), 66 and 67 of Chapter V of Finance Act, 1994 are unconstitutional in so far as they attempt to levy service tax on composite contract of civil construction of materials supplied and labour in its entirety is arbitrary, unconstitutional.

For Petitioners: Mr.V.Raghavachari

For Respondents: Mr.A.P.Srinivas
(Senior Panel Counsel for IT)

ORDER

The ONGC Civil Contractors Association, Nagapattinam, represented by its Secretar,y filed a Writ of Declaration, declaring that Sections 65 (30a), 65(105) (zzq), 66 and 67 of Chapter V of Finance Act, 1994 are unconstitutional, in so far as, they attempt to levy service tax on composite contract of civil construction of materials supplied and labour in its entirety, is arbitrary and unconstitutional.

2.The Writ Petition was filed in the year 2010. Several developments took place with reference to the provisions of the amended Service Tax Act and now, the Goods and Services Tax Act, 2017 (GST Act) has replaced the Service Tax Act. In view of the developments, further adjudication need not be undertaken with reference to the grounds. This apart, Contractors Association cannot maintain a Writ Petition and the aggrieved members with reference to the provisions of the Act alone is competent to file a Writ Petition and thus, this Court is of an opinion that the Writ Petition itself is not entertainable, on the ground that the writ petitioners/Associations cannot be construed as aggrieved person. Thus, the aggrieved members of the petitioners/Associations are at liberty to file the Writ Petition, if any grievances exist.

3.With these observations, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

gsa

To

1.The Secretary,
Union of India,
Ministry of Finance,
North Block, New Delhi.

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   Service Tax Commissionerate,
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   Neravi, Karaikal.

+1 CC to Mr.V.Raghavachari, Advocate sr 29512.
+1 CC to Mr.A.P.Srinivas, Advocate sr 29311.

W.P.No.27712 of 2010

RLD(CO)
SP(20/07/2021)