IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.11268, 10179 & 10178 of 2020
WMP.Nos.13735, 12378 & 12376 of 2020

M/s.Trinity's Clearing and Shipping Agencies,
Rep. by its Partner:
S.Alexander ...Petitioner in all WPs

Vs

1.Union of India
Rep.by its Secretary to Govt.,
Dept. of Revenue,
Ministry of Finance,
North Block, New Delhi ..R1 in all WPs

2.The Additional Commissioner of GST and Central Excise
Chennai North Commissionerate,
No.26/1, Mahatma Gandhi Road,
Nungambakkam,
Chennai-600034 ...R2 in WP.No.11268 of 2020

3.The Assistant Commissioner of GST
and Central Excise,
Egmore Division,
Chennai North Commissionerate,
Newry Towers, 1st Floor,
Plot No.2054, I Block, II Avenue,
12th Main Road, Anna Nagar,
Chennai-600040 ... R2 in W.P.No.10178 of 2020

4. The Deputy Commissioner of GST and Central Excise,
Egmore Division,
Chennai North Commissionerate,
Newry Towers, 1st Floor,
Plot No. 2054,
Block, II Avenue,
12th Main Road, Anna Nagar,
Chennai 600 040. ... R2 in WP.No. 10179 of 2020

Prayer in W.P.No.11268 of 2020: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of certorari calling for the records relating to the impugned order in original No.04/2020 dated 06.02.2020 issued by the 2nd respondent and quash the same.

Prayer in WP.No.10178 & 10179 of 2020: Writ Petitions filed under Article 226 of the Constitution of India praying to Writ of certorari calling relating to the impugned statements of demand No.18/2019 and 05/2020 dated 15.04.2019 & 11.02.2020 respectively, issued by the 2nd respondent and quash the same.

For Petitioner : Mr.M.A.Mudimannan

For Respondents **2 & 3** : Mr.A.P.Srinivas
Senior Standing Counsel

***For 1st Respondent: Mr.Venkataswamy Babu, SPC**

C O M M O N   O R D E R

The challenge is to order-in-original dated 06.02.2020 and statements of demand dated 15.04.2019 and 11.02.2020. Admittedly, the issue involved is factual and there is a clear finding in the impugned order to the effect that break up of service charge received by the petitioner during the period in question have not been produced by them.

2. The reply filed also does not contain the bifurcation of the amounts liable to service tax and the reimbursable expenses, which are excludible. In the absence of such details, the Assessing Officer cannot be faulted in having brought to tax the entire amount. It is thus appropriate that the petitioner file statutory appeals in order that these factual aspects may be looked into.

3. Hence, in line with the decision of the Supreme Court in a series of judgments, viz., In Re: Cognizance for Extension of Limitation dated 23.03.2020, 06.05.2020, 10.07.2020, 08.03.2021 and M/s.SS Group Pvt. Ltd. V. Aaditiya J. Garg & another (Civil Appeal No.4085 of 2020 dated 17.12.2020) extending the limitation for filing of appeals, petitioner is granted 30 days time from today to file appeals. This is for the reason that the present Writ Petitions have been pending on the file of this Court since 11.01.2021.

4. Such appeals, if filed within the period as aforesaid, will be taken on file by the Appellate authority without reference to limitation, but ensuring all other statutory conditions and considered on merits and in accordance with law.

5. These writ petitions are disposed in the above terms. Connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CCC)
Dated: 06.07.2021

***Counsel's Appearance Corrected as per letter dated 01.04.2022**

Sd/-
Sub Assistant Registrar(CO-II)
Dated: 25.04.2022

//True Copy//

Sub Assistant Registrar

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To

1.Union of India
Rep.by its Secretary to Govt.,
Dept. of Revenue, Ministry of Finance,
North Block, New Delhi

2.The Additional Commissioner of GST and Central Excise
Chennai North Commissionerate,
No.26/1, Mahatma Gandhi Road,
Nungambakkam, Chennai-600034

3.The Assistant Commissioner of GST and Central Excise, Egmore Division,
Chennai North Commissionerate,
Newry Towers, 1st Floor,
Plot No.2054, I Block, II Avenue,
12th Main Road, Anna Nagar, Chennai-600040

4. The Deputy Commissioner of GST and Central Excise,
Egmore Division, Chennai North Commissionerate,
Newry Towers, 1st Floor,
Plot No. 2054, I Block, II Avenue,
12th Main Road, Anna Nagar, Chennai 600 040.

Copy To
The Section Officer,
ER Section, High Court, Madras.

Corrected order as be substituted to the order already despatched on 06.08.2021

+3cc to Mr.A.P.Srinivas, Advocate, S.R.No. 28225, 28226 & 28224

W.P. No.11268, 10179 & 10178 of 2020
WMP.Nos.13735, 12378 & 12376 of 2020

AK II(CO)
GN(16/07/2021)