IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26356 of 2014
and
M.P.No.1 of 2014

1.V.S.Ekambaram
2.V.E.Gayathri ... Petitioners

Vs.

1.The Additional Commissioner, Chennai – III,
Office of the Commissioner of Central Excise,
Chennai – III Commissionerate,
26/1, Mahatma Gandhi Road, Chennai – 600 034.

2.The Superintendent (SIR),
Office of the Commissioner of Central Excise,
Survey Intelligence and Research Cell,
Tambaram – II Division,
Plot No.40, Ranga Colony, Rajakilipakkam,
Chennai – 600 073. ... Respondents

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Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, to call for the records of the 1st respondent culminating in the impugned show cause Notice No.27/2014 (ST) bearing C.No.V/15/RIS/33/2014-ADC-C.Ex.-Adj.-III dated 21.08.2014, quash the same and direct the 1st respondent to redo the

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adjudication in accordance with law after completion of investigation by the 2nd respondent.

For Petitioners : Mr.Arun Anbumani
For Respondents : M/s.R.Hemalatha
Senior Standing Counsel

ORDER

The petitioner has challenged the impugned Show Cause Notice No.27/2014 (ST) dated 21.08.2014 bearing reference C.No.V/15/RIS/33/2014-ADG-C.Ex-Adj proposing to demand an amount of Rs.18,57,154/-as service tax due from the petitioner and to show cause as to why the amount paid by the petitioner during the course of investigation should not be appropriated towards the tax liability proposed in the impugned show cause notice and why penalty should not be imposed on the petitioner.

2.It is a case of the petitioner that the petitioner was under a bona fide belief that he was not liable to pay service tax for renting of immovable property and that while the matter was pending before the second respondent, the first respondent issued the impugned show cause notice thereby denying the benefit of waiver from payment of Parenti under section 73 (3) of the Finance Act,1994.

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3.Though no counter has been filed, I am of the view that this writ petition is liable to be dismissed. The petitioner has been issued with the impugned show cause notice only. It is for the petitioner to file reply to the same and participate in the adjudication process under the Finance Act,1994.

4.Therefore, I am refraining from making any observations on the merits on the case of the petitioner. It is open for the petitioner to make appropriate submission before the respondent in the said show cause proceeding.

5.Petitioner is therefore directed to file a reply to the impugned show cause notice within a period of 30 days from date of receipt of this order. The 1st respondent shall pass appropriate order on merits within a period of three months from receipt of this order.

6.Before passing such order, petitioner shall be heard either in person or through his representative physically or through video conference. This Writ petition stands disposed with the above observations. No cost. Consequently, miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
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Notes:-In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Southern Railway,
Represented by The Chief Administrative Officer,
Construction Branch,
Egmore, Chennai – 600 008.

2.The Assistant Commissioner (Commercial Taxes),
Nandanam Assessment Circle,
46, Greenways Road, Chennai – 600 028.

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C.SARAVANAN, J.

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