IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-07-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP Nos.103 of 2017, 8062 and 11331 of 2018

And

WMP Nos.110 of 2017, 10046 and 13230 of 2018

M/s.Shriram Chits Tamil Nadu Private Limited,
Represented by its Authorised Signatory,
Mr.N.Mani,
Greams Dugar,
4th Floor,
149, Greams Road,
Chennai-600 006. .. Petitioner in all WPs

vs.

The Principal Commissioner of Service Tax,
Service Tax-1 Commissionerate,
Newry Towers,
No.2054-I, II Avenue,
Anna Nagar,
Chennai-600 040. .. Respondent in WP 103/2017

The Additional Commissioner,
The Office of the Commissioner of GST & Central Excise,
Audit-I Commissionerate,
No.1775, Jawaharlal Nehru Inner Ring Road,
Anna Nagar West Extension,
Chennai-600 101. .. Respondent in WP 8062/2018

The Additional Commissioner,
The Office of the Commissioner of GST & Central Excise,
North Commissionerate,
26/1, Uthamar Gandhi Salai,
Nungambakkam,
Chennai-600 034. .. Respondent in WP 11331/2018

WP 103 of 2017 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records in file No.C.No.IV/09/44/2015-ST I Adjn comprising of Order-in-Original No.CHN-SVTAX-R08 & 09/2016-2017 dated 15.12.2016 on the file of the respondent and quash the same.

WP 8062 of 2018 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records in file bearing File No.C.No.V/15/ST/27/2017-Tech Audit-1 comprising of show cause notice No.08/2018 dated 12.03.2018 on the file of the respondent and quash the same.

WP 11331 of 2018 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records in file bearing File No.C.No.V/15/27/2018-Ch.N.Adj comprising of show cause notice No.18/2018 dated 20.04.2018 on the file of the respondent and quash the same.

For Petitioner in all WPs : Mr.S.Muthuvenkataraman

For Respondent in all Wps : Mr.A.P.Srinivas,
Senior Standing Counsel.

C O M M O N O R D E R

The order in original dated 15.12.2016 and the show cause notices respectively dated 12.03.2018 and 20.04.2018 passed by the respondent, are under challenge in the present writ petition.

2. The dispute in short reveals that the petitioner claims certain benefits with reference to the judgment of the Hon'ble Supreme Court of India in the case of Union of India vs. Margadarshi Chit Funds (P) Ltd [2017 (3) G.S.T.L. 3 (SC)].

3. The learned counsel for the petitioner reiterated that beyond Foreman Commission Report, the Supreme Court conferred certain benefits as far as the Chit Fund Companies are concerned.

4. However, the learned Senior Standing Counsel, appearing on behalf of the respondent, states that the benefits conferred by the Supreme Court with reference to Foreman Commission has already been extended in favour of the writ petitioner and the writ petition filed by the very same writ petitioner in WP No.104 of 2017 was ordered by this Court on 21.12.2020. With reference to the other allegations in the impugned order in original and the show cause notice, the petitioner is bound to prefer an appeal for adjudication of the disputed facts.

5. This Court is of the considered opinion that the benefits conferred by the Supreme Court is to be extended and in respect of all other allegations, an adjudication is to be entertained with reference to the findings made by the Original Authority/Appellate Authority.

6. The Original Authority or the Appellate Authority, as the case may be, made certain findings in respect of the claim made by the petitioner. However, adjudication of disputed issues are to be undertaken with reference to the documents and evidences and in this regard, the petitioner has to prefer an appeal, if the petitioner has chosen to do so. Such disputed facts cannot be adjudicated in writ proceedings, more specifically, with reference to the documents and evidences.

7. As far as the benefits conferred by the Hon'ble Supreme Court in the case of Margadarshi Chit Funds (cited supra), are concerned, the same is to be extended and as pointed out by the learned Senior Standing Counsel for the respondent, the benefits have already been extended in favour of the petitioner.

8. However, the Appellate Authority may segregate the issues and accordingly proceed with an adjudication. If any appeal is preferred by the petitioner, challenging the order in original and the show cause notice, which are under challenge in the present writ petitions.

9. This being the factum, the petitioner is at liberty to file an appeal within a period of four weeks from the date of receipt of a copy of this order in a prescribed format and by complying with the Statute and the Rules and the Appellate Authority, on receipt of any such appeal from the petitioner, shall condone the delay, if any and entertain the appeal and adjudicate the issues on merits and in accordance with law and by affording an opportunity to the petitioner and pass final orders as expeditiously as possible.

10. With the above observations, the writ petitions stand disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VII)

// True Copy //

Sub Assistant Registrar

Svn

To

1.The Principal Commissioner of Service Tax,
Service Tax-1 Commissionerate,
Newry Towers,
No.2054-I, II Avenue,
Anna Nagar,
Chennai-600 040.

2.The Additional Commissioner,
The Office of the Commissioner of GST & Central Excise,
Audit-I Commissionerate,
No.1775, Jawaharlal Nehru Inner Ring Road,
Anna Nagar West Extension,
Chennai-600 101.

3.The Additional Commissioner,
The Office of the Commissioner of GST & Central Excise,
North Commissionerate,
26/1, Uthamar Gandhi Salai,
Nungambakkam,
Chennai-600 034.

+1CC to M/s.M.S.Muthu Venkatraman, Advocate, SR.No.36194
+1CC to Mr.A.P.Srinivas, Advocate, SR.No.35998

WP Nos.103 of 2017, 8062 and 11331 of 2018

SMI(CO)
B.VC (25/08/2021)