BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.9717 of 2019
and
W.M.P.(MD)No.7625 & 7626 of 2019

Tirunelveli City Municipal Corporation,
Rep. by its Commissioner,
Tirunelveli District. ... Petitioner

Vs.

1. The Assistant Commissioner
Office of the Commissioner GST &
Central Excise(Appeals), Coimbatore,
Circuit Office, Madurai,
4, Lal Bahadur Sashtri Marg,
C.R.Buildings, Madurai - 2.

2. The Assistant Commissioner of GST & Central Excise,
2/1, Nehru Nagar, STC College Road,
NGO 'A'Colony, Perumalpuram Post,
Tirunelveli - 627 007.

3. The Branch Manager,
Bank of Baroda,
Municipal Corporation Campus,
S.N.High Road, Tirunelveli. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned orders in C.No.V/ST/15/91/2017-Adjn dated 22.02.2018 passed by the second respondent and consequential order passed by the second respondent in C.No.IV/16/23/2017-TECH(ARREARS) dated 27.11.2018 and consequential order passed by the first respondent ORDER-IN-APPEAL No.132 of 2019 dated 11.03.2019 and quash the same.

For Petitioner : Mr.P.Athimoolapandian
For R-1 & R-2 : Mr.R.Aravinthan
For R-3 : Mr.Pala Ramasamy

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O R D E R

Heard the learned counsel on either side.

2. This writ petitioner is a local body. The question that arises for consideration is whether the petitioner is liable to pay

service tax. It has already been held by this Court that the petitioner is bound to pay service tax together with interest. However, taking note of the fact that the petitioner is a state instrumentality, it would not be fair to impose any penalty. Only to that limited extent, this Court interfered while considering similar cases. Taking the same approach, even while sustaining the impugned orders in so far as it levies tax and interest, the levy of penalty alone is set aside.

3. This writ petition stands partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PMU

Note: 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 Assistant Commissioner
   Office of the Commissioner GST &
   Central Excise(Appeals), Coimbatore,
   Circuit Office, Madurai, 4, Lal Bahadur Sashtri Marg,
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2. The Assistant Commissioner of GST & Central Excise,
   2/1, Nehru Nagar, STC College Road,
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   Tirunelveli - 627 007.

Order made in
W.P.(MD)No.9717 of 2019 and
W.M.P.(MD)No.7625 & 7626 of 2019
23.02.2021

KUN(CO)
SRS (05/03/2021) 2P : 3C