



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NO.11090 OF 2019

AND

W.M.P.NO.11515 OF 2019

(Through Video Conferencing)

The Commissioner,
Salem City Municipal Corporation,
Salem-1.

...Petitioner

Vs.

1.The Additional Commissioner,
GST & Central Excise,
O/o. Commissioner of GST and Central Excise,
Salem- 636 001.

2.The Chief Commissioner,
GST & Central Excise,
No.26, Mahatma Gandhi Road,
Chennai- 600 034.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the Additional Commissioner of GST & Central Excise, Salem in Original Sl.No.24/2017-ST(ADC) in order dated 14.08.2017 and to quash the same, and to consequently directing the respondent to waive the penalty and other late fee charges levied upon the Petitioner Corporation herein.

For Petitioner	:	Mr.Haja Nazrudeen Advocate General asst. by Mr.S.Sathish
For Respondents	:	Mr.J.Vasu Standing Counsel

ORDER

Heard learned counsel for the petitioner and the learned standing counsel for the respondents.



2. Though the learned standing counsel for the respondents would submit that the petitioner has an alternate remedy before the Appellate Commissioner and that the order passed by this Court in W.P.Nos.8900, 3969 & 12489 of 2018 and 31799 of 2017 on 22.03.2021 have been appealed before the Hon'ble Division Bench, it is noticed that no stay has been obtained by the respondents. The order passed by this Court in the above cases are detailed and has examined the issue as to whether the respondent would be justified in levying the service tax on municipalities and local bodies in the light of the provisions of the Constitution of India and Finance Act and the notifications therein.

3. Considering the fact that the said order has not been stayed till date, I am inclined to allow this writ petition with consequential relief to the petitioner.

4. This writ petition stands allowed with the above observations. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

nst/jas

To

1. The Additional Commissioner,
GST & Central Excise,
O/o. Commissioner of GST and Central Excise,
Salem- 636 001.

2. The Chief Commissioner,
GST & Central Excise,
No.26, Mahatma Gandhi Road,
Chennai- 600 034.

+2ccs to M/s.J.Vasu, Advocate Sr.No.902

W.P.No.11090 of 2019
and
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KSM(CO)
RVM(21/01/2022)