IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.11607 of 2019
and
WMP.Nos.11846 & 11847 of 2019

[Video Conferencing]

M/s.Ootacamund Club
Represented by its Secretary
Mr.Oommen Abraham
Post Box No.19, Club Road
Udhagamandalam – 643001. ...Petitioner

-Vs.-

The Principal Commissioner of GST & Central Excise
6/7, A.T.D.Street, Race Course Road,
Coimbatore – 641018. ... Respondent

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 Respondent contained in its Statement of Demand bearing No.SL.NO.01/2019-ADC, dated 25.03.2019 and to quash the same as arbitrary, illegal and unjust and to consequently forbear the respondent from assessing the petitioner to service tax under the provisions of the Finance Act of 1994.

For Petitioner : Mr.Suhrith Parthasarathy

For Respondent : Mr.R.Gunalan,
Senior Standing Counsel

ORDER

Heard the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondent.

2.The petitioner has challenged the statement of demand dated 25.03.2019 seeking to recover the service tax on the services provided by the petitioner under the category of clubs/associations for the period between April 2016 to June 2017.

3.Though the petitioner is required to file a reply to the statement of demand and participate in the adjudication mechanism prescribed under the Finance Act, 1994, this Court is of the view that the issue is covered against the revenue in terms of the decision of the Hon'ble Supreme Court in State of West Bengal Vs. Calcutta Club Limited which has been followed by this Court in the petitioner's own case vide order dated 25.02.2020 in W.P.No.19638 of 2017. The relevant portion of the said order is extracted hereunder:-

> “3.The issue, as to whether the petitioner has liable to pay the service tax or not is now covered by a decision of the Hon'ble Supreme Court in the case of State of West Bengal Vs. Calcutta Club Limited, 2019 SCC Online SC 1291. For earlier periods between 01.10.2008 and 21.01.2014 and between 01.02.2014 and 31.03.2015, an order has been passed by this Court on 17.12.2019 in petitioner's own case in W.P.No.8246 of 2016 following the decision of the Hon'ble Supreme Court in the case of State of West Bengal and others Vs. Calcutta Club Ltd and Chief Commissioner of Central Excise and Service Tax and Another Vs. Rachi Club Ltd, 2019 SCC Online SC 1291.
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> 4.Therefore, the Writ Petition stands allowed in the light of decision of the Hon'ble Supreme Court in State of West Bengal case (supra) and the decision of this Court in petitioner's own case in W.P.No.8246 of 2016. No cost. Consequently, connected Miscellaneous Petition is closed.”

4.Since the issue is covered in favour of the petitioner, no useful purpose will be served in relegating the petitioner to file reply to the statement of demand. In view of the above, the Writ Petition stands allowed with consequential relief to the petitioner. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

pgp

To:

The Principal Commissioner of GST &
Central Excise,
6/7, A.T.D. Street, Race Course Road,
Coimbatore - 641 018.

+1cc to Mr.Arun Karthik Mohan, Advocate, S.R.No.1167

+1cc to Mr.R.Gunalan, Advocate, S.R.No.1198

W.P.No.11607 of 2019

UM(CO)
SU(31/01/2022)