IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: **13.12.2022**

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.32696 of 2022
&
W.M.P.No.32080 of 2022
in
W.P.No.32696 of 2022

AGP Constructions
Represented by its Proprietor
Anandha Velu
S/o.Paavadai
No.3, Middle Street-Main
Kurumbapet, Thattanchavady
Puducherry – 605 009 .. Petitioner

Vs.

1.The Government of India
Represented by its Secretary
Ministry of Finance
New Delhi – 110 001

2. The Commissioner
Office of the Commissioner of GST & Central Excise
Puducherry, Goubert Avenue (Beach Road)
Puducherry – 605 001

3. The Assistant Commissioner
Office of the Assistant Commissioner of GST and
Central Excise, Puducherry Division – II
No.14, Municipal Street, Azeez Nagar
Reddiarpalayam
Puducherry – 605 010

4. The Chief Engineer
Public Works Department
Puducherry ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned ORDER-IN-ORIGINAL No.16/2021 (ST) dated 15.06.2021 passed by the 3rd respondent and quash the same and further direct the 3rd respondent to grant exemption to the petitioner from payment of service tax in respect of the works in contract service rendered to the 4th respondent and other departments of Government of Puducherry between the period from 01.04.2015 to 30.08.2007 and pass necessary order.

For Petitioner : Mr.B.Balavijayan

For Respondents : Mr.Umesh Rao.K
Senior Standing Counsel
(GST & Customs) for R1 to R3

O R D E R

This common order will govern the captioned main writ petition and captioned 'Writ Miscellaneous Petition' ['WMP'] thereat.

2. Captioned main writ petition has been filed assailing an 'order dated 15.06.2021 captioned 'ORDER-IN-ORIGINAL No.16/2021 (ST)' made by the third respondent' [hereinafter 'impugned order' for the sake of convenience and clarity].

3. Mr.B.Balavijayan, learned counsel for writ petitioner submits that the central issue in the captioned writ petition is predicated on a notification i.e., Notification No.6/2015-Service Tax dated 01.03.2015 whereby exemption from levy of service tax for services provided to Government was withdrawn. To be noted, such exemption was earlier granted vide Notification No.25/2012-Service Tax dated 20.06.2012 (Serial No.12). In a batch of writ petitions, aforementioned Notification No.6 of 2015 dated 01.03.2015 was assailed and interim orders were granted but the impugned order has been made by placing reliance on Notification No.6 is learned counsel's say. Learned counsel draws the attention of this Court to Paragraph 7 of the writ affidavit in this regard but it may not be necessary to extract and reproduce the same owing to the narrow compass on which the matter turns.

4. Mr.Umesh Rao.K, learned senior Standing Counsel, who accepts notice on behalf of Respondents 1 to 3 submits that in a batch of writ petitions in W.P.No.1185 of 2018 etc., batch (Nandhini Construction and Others) a Hon'ble Division Bench of this Court in and by order dated 30.11.2022 dismissed the challenge to Notification No.6 and sustained the aforementioned Notification No.6 dated 01.03.2015.

5. This drops the curtains on the captioned matter.

6. Be that as it may, as against the impugned order, the writ petitioner has an alternate remedy of an appeal to the Commissioner of GST and Central Excise. It is open to the writ petitioner to pursue the alternate remedy of statutory appeal subject of course to limitation and pre-deposit condition, if any. If the writ petitioner chooses to take this route, it is open to the Appellate Authority to consider the appeal and adjudicate upon the same and decide the same on its own merits and in accordance with law.

Curtains are dropped on captioned writ petition and WMP. Sequitur is captioned writ petition and WMP are dismissed albeit with a window which has been provided as indicated supra. There shall be no order as to costs.

13.12.2022

Index: yes/no
gpa

To

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