



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P. (MD)No.10044 of 2016

and

W.M.P. (MD)No.7887 of 2016

The Commissioner,
Kodaikanal Municipality,
Kodaikanal,
Dindigul District.

... Petitioner

Vs.

1. The Commissioner of (Appeals),
Central Excise,
Central Revenue Building,
No.4, Lal Bahadur Shastri Road,
Bibikulam,
Madurai - 625 002.

2. The Joint Commissioner of Central Excise,
Central Revenue Building,
No.4, Lal Bahadur Shastri Road,
Bibikulam,
Madurai - 625 002.

3. The Superintendent,
Central Excise
Batlagundu Range,
Batlagundu, Dindigul District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records relating to the impugned order issued by the second respondent herein in MAD-CEX-000-JTC-09-2015 dated 30.04.2015, quash the same.

For Petitioner : Mr.T.S.Mohamed Mohidheen

For Respondents : Mr.K.Prabhu
Junior Standing counsel

O R D E R

The impugned order passed by the second respondent in MAD-CEX-000-JTC-09-2015 dated 30.04.2015 is under challenge in the present Writ Petition.



2. The charge against the petitioner is that the petitioner has not paid the service tax on 'renting of immovable property service' during the period from April 2012 to March 2013, for which, a show cause notice was issued by the second respondent in Show Cause Notice No.12 of 2014 dated 01.04.2014 demanding a sum of Rs.15,74,373/- towards service tax for the period from April 2012 to March 2013 under Section 73(1) of the Finance Act, 1974 with appropriate interest and penalty. The second respondent, without providing sufficient opportunity to the petitioner, passed the impugned order in MAD-CEX-000-JTC-09-2015, dated 30.04.2015 imposing a sum of Rs.15,74,373/- along with appropriate interest as per Section 75 of the Act and sum of Rs.10,000/- as penalty. As against the said impugned order, the petitioner had preferred an appeal before the Commissioner (Appeal) on 01.02.2016, which was not entertained. Hence, the petitioner had filed the present Writ Petition.

3. The learned counsel for the petitioner submitted that during the pendency of the Writ Petition, availing of Sabka Vishwas Scheme, the petitioner had entered into One Time Settlement with the respondents. The petitioner had paid a sum of Rs.4,72,311.90/- and the Sabka Vishwas Challan and the payment particulars have been produced before this Court.

4. Mr.K.Prabhu, learned Junior Standing Counsel appearing for the respondents submits that the petitioner has to pay the service tax of Rs.15,74,373/-. Hence, the Commissioner (Appeal) in its Order-in-Appeal No.MDU-CEX-000-APP-114-16, dated 26.09.2016, has dismissed the appeal filed by the petitioner as time barred and for non-compliance of the requirement under Section 35F of the Central Excise Act, 1944 read with Section 83 of the Finance Act, 1994.

5. As per the Scheme, the assessee has to withdraw the proceedings pending before the Courts. Hence, the petitioner has to withdraw the above Writ Petition. Thereafter, the Sabka Vishwas Scheme can be applied and the designated Committee may issue the discharge certificate.

6. In view of the same, the prayer sought for in this Writ Petition has become infructuous. Hence, this Writ Petition is dismissed as per the provisions of Section 127(7) of the Chapter V of the Finance Act, 2019 read with Rule 8 of the Sabka Vishwas Rules, 2019. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/07/2022

Sub Assistant Registrar(CS)



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Batlagundu, Dindigul District.

+1 CC to Mr.T.S. MOHAMED MOHIDEEN, Advocate (SR-25956[F] dated 15/06/2022)

+1 CC to M/s.K. PRABHU, Advocate (SR-26602[F] dated 17/06/2022)

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