



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.03.2023

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.5958 of 2022
and WMP No.6042 of 2022

Mahindra Holidays & Resorts India Limited
represented by its Senior Manager – Taxation
Mahindra Towers
17/18 Pattulas Road,
Chennai – 600 002.

... Petitioner

Vs

Principal Commissioner of CGST and Central Excise,
Chennai North Commissionerate,
No.26/1, Mahatma Gandhi Road,
Chennai – 600 034.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the respondent relating to Order C.No.V/15/10/2020-STC-Adj. PF dated 07.02.2022 and quash the same.

For Petitioner : Mr.Vijay Narayan
Senior Counsel
for Mr.Rahul Unnikrishnan

For Respondent : Mrs.R.Hemalatha
Senior Standing Counsel



ORDER

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The short point that is put forth by the petitioner is that the impugned order dated 07.02.2022 passed on the application filed seeking rectification of order-in-original dated 22.11.2021 under the provisions of the Finance Act, 1994 (in short 'Act') levying service tax, is in violation of the principles of natural justice.

2. The petitioner has filed an application under Section 74 of the Act seeking rectification of the mistake apparent from record on 17.01.2022. Inter alia, the petitioner has specifically sought an opportunity of hearing, at paragraph 20, prior to the finalisation of proceedings.

3. The impugned order dated 07.02.2022 has not just rejected the application but has also been passed without hearing the petitioner. Since the violation of principles of natural justice is writ large on the order, the impugned order is set aside.

4. The petitioner will appear before the respondent on Thursday, the 23rd of March, 2023 at 10.30 a.m. without awaiting any further notice in this regard along with supporting materials, if any in regard to the application. After hearing the petitioner and taking note of the submissions and materials, if any, filed, orders shall be passed afresh on the application under Section 74 of the Act within a period of six (6) weeks from date of personal hearing.



5. This Writ Petition is allowed. No costs. Connected Miscellaneous

WEB.COM Petition is closed.

08.03.2023

Index : Yes / No

Speaking/non-speaking Order

Neutral Citation : Yes/No

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To

Principal Commissioner of CGST and Central Excise,
Chennai North Commissionerate,
No.26/1, Mahatma Gandhi Road,
Chennai – 600 034.



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