IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2023

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.10027 of 2021
and W.M.P. No.10655 of 2021

M/s.R.K.Timbers
Represented by its Proprietor ... Petitioner

Vs.

1.Union of India,
Represented by Secretary, Ministry of Finance,
Government of India, North Block,
New Delhi- 110 001.

2.Goods and Service Taxes Council,
5th Floor, Tower-II, Jeevan Bharti Building,
Janpath Road, Connaught Place,
New Delhi- 110 001.

3.The Superintendent,
GST & Central Excise,
GST & Central Excise Audit-I Commissionerate,
Chennai- 600 101. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the 3rd Respondent in the Show Cause Notice No.65/2021 dated 15.03.2021 and quash the same as ultra vires to Integrated Goods and Services Tax Act, 2017 and Articles 19(1)(g) and Article 265 of the Constitution of India.

For Petitioner : Mr.C.Rekha Kumari

For Respondent : Mr.A.P.Srinivas
Senior Standing Counsel

ORDER

The writ petition is filed challenging the order of the 3rd Respondent in the Show Cause Notice No.65/2021 dated 15.03.2021 and quash the same as ultra vires to Integrated Goods and Services Tax Act, 2017 and Articles 19(1)(g) and Article 265 of the Constitution of India.

2. It is submitted by the learned counsel for the petitioner and the learned counsel for the Respondents in unison that the issue involved in this writ petition stands covered by the judgment of the Hon'ble Supreme Court in the case of *Union of India vs. Mohit Minerals Private Limited* reported in *(2022) 92 GST 101 (SC),* which was followed by the Division Bench of this Court in W.P.Nos.10330 of 2019 and etc., batch dated 29.09.2022. The relevant portions of the order is extracted hereunder:

> *"4. Both the learned counsel for the petitioners and the learned counsel for the Revenue confirmed that the issue is no longer res integra and is covered in favour of the petitioners in terms of the decision of the Hon'ble Supreme Court in Union of India vs. Mohit Minerals Private Limited reported in (2022) 92 GST 101 (SC), rendered on 19.05.2022. The relevant portion from the conclusion in the said decision of the Hon'ble Supreme Court is extracted as under:*

"148. (i) xxxx
(ii) xxxx
(iii) The IGST Act and the CGST Act define reverse charge and prescribe the entity that is to be taxed for these purposes.The specification of the recipient - in this case the importer - by Notification 10/2017 is only clarificatory. The Government by notification did not specify a taxable person different recipient prescribed in Section 5(3) of the IGST Act for the purpose of reverse charge."

5. In view of the above, these Writ Petitions stand allowed. No costs. Consequently, connected W.M.Ps. are closed."

3. In view of the same, the present writ petition is disposed of in terms of the decision in W.P.Nos.10330 of 2019 and etc., batch. No costs. Consequently, the connected miscellaneous petition is closed.

05.07.2023

Speaking (or) Non Speaking Order
Index:Yes/No
Neutral Citation: Yes/No
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MOHAMMED SHAFFIQ, J.

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To:
1.The Secretary, Ministry of Finance,
Government of India, North Block,
New Delhi- 110 001.

2.Goods and Service Taxes Council,
5th Floor, Tower-II, Jeevan Bharti Building,
Janpath Road, Connaught Place,
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