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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 5292 OF 2024

Adv. Anoop Narayanan : Petitioner

Versus

The Deputy Commissioner,
CGST and CX Division IV,
Mumbai East Commissionerate & ors. : Respondents

Mr Anikit Lohia a/w Advt. Ative Patel, Mr. Viraj Raiyani i/by M/s. AVP Partners for the Petitioner.
Mr Subir Kumar, a/w Adv. Sangeeta Yadav, Adv. Abhinav Palsikar and Adv. Ashita Aggarwal for the Respondents.

CORAM **M.S. Sonak &**
Jitendra Jain, JJ.
DATED: **17 December 2024**

ORAL JUDGEMENT :- (*Per M. S. Sonak, J.)*

1. Heard learned counsel for the parties.

2. Rule. The rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.

3. The challenge in this Petition is to the impugned Order-In-Original dated 30 November 2022 (Exhibit A) and the impugned letter dated 05 June 2024 (Exhibit B).

4. The issue raised in this Petition is squarely covered by the decision of the Coordinate Bench of this Court in **Adv. Pooja Patil Vs/ The Deputy Commissioner, CGST and CX Division VI, Raigad**

Commissionerate & ors.[1]. This decision, on considering the earlier precedent as well as notifications on the subject, made the following observations at paragraphs 8, 9 and 10 :-

> "8. It is thus clear that as set out in the Notification, the taxable service in respect of services provided or to be provided by the individual advocate for a firm of advocates has been set out to be 'Nil'. Similarly Notification No.25/2012 dated 20th June, 2012, also clearly provides that the service provided by an individual advocate, partnership firm of advocates, by way of legal services being exempted from levy of service tax.
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> 9. If the aforesaid position is to be the correct position, certainly the Designated Officer has acted without jurisdiction having acted contrary to the binding notifications. In the case of **Ish Kiran Jain** (cited supra), this Court in paragraph 5 referring to the different decisions of this Court as also a decision of the Jharkhand High Court, the Court observed thus :-
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> > "5. The petitioner has also referred to the decision of the Division Bench of this Court in the case of **P.C. Joshi Vs. Union of India (2015(37) S.T.R. 6]** to contend that although the said decision recognised the levy of service tax on advocate, the same has been stayed by the Supreme Court. The Petitioner has also placed reliance on the decision of the Jharkhand High Court in the case of **Madhu Sudan Mittal Vs. Union of India [2023(70)GSTL 124]**, to contend that in such decision, the Jharkhand High Court has held that demand notice for payment of service tax on legal services provided by advocate was not sustainable…….."
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> 10. We may observe that the notifications which are now placed for consideration of the Court are absolutely clear, they were not the subject matter of consideration in the case of **Isha Kiran Jain (cited supra)**. We are thus of the considered opinion, that no useful purpose would be achieved in present proceeding remanding to the Designated Officer. We deem it fit in the interest of justice to quash and set aside the impugned order, for the reasons that the Designated Officer has acted without jurisdiction and as the impugned order is passed patently, contrary to the notifications dated 20th June 2012 (supra). The Petition accordingly needs to succeed. It stands allowed in terms of prayer clause (a)."

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1 Order dated 24 January 2024 in Writ Petition No.1085 of 2024.

5. Therefore, following the above precedent, we allow this Petition and make the Rule absolute in terms of prayer clause (a), which reads as follows:-

> "a) this Hon'ble Court be pleased to issue of writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction under Article 226 & 227 of the Constitution of India calling for the records and proceedings in respect of the impugned show cause notice dated 30th December 2020 (a copy whereof has not been received by the Petitioner, and hence, not produced), the order dated 30th November 2022 (Exhibit A hereto) as well as the Impugned Letter dated 5th June 2024 (Exhibit B hereto), and after going through the legality, validity and proprietary thereof, be pleased to quash and set aside the same:"

6. There shall be no orders for costs.

(Jitendra Jain, J) **(M.S. Sonak, J)**