IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE G. ARUL MURUGAN

W.P.Nos.4853, 4854, 4855 & 4856 of 2009
and MP.No.1 of 2009

M/s.WeP Peripherals Ltd,
Represented by its Company Secretary
Mr.M.Saravanan
No.40/1A, Basappa Complex,
Lavelle Road,
Bangalore-560 001. ... Petitioner in all WPs

vs

1.The Union of India,
Represented by the Secretary to Government,
Ministry of Finance,
Department of Revenue,
New Delhi.

2.The Additional Director General,
Office of the Additional Director General,
Director General of Central Excise Intelligence,
C-3, 'C' Wing, Rajaji Bhavan,
Besant Nagar, Chennai-600 090.

3.The Commissioner of Central Excise,
Office of the Commissioner of Service Tax,
No.16, S.P. Complex, Lalbagh Road,
Bangalore-560 27.

4.The State of Tamil Nadu
Represented by: Secretary to Government
Commercial Taxes Department
Fort St. George,
Chennai-600 009. .. Respondents in all WPs

Prayer in WP.No.4853 of 2009: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Declaration, declaring the section 65(104(c)) of the Finance Act 1994 defining the Support services of Business or commerce and Section 65(105)(zzzzj) for Supply of Tangible goods in so far as it provides for levy of tax on transfer of right to use goods as ultravires Article 14, 19(i) (g), 265 of the Constitution in as much as the transfer of right to use is deemed to be a sale falling within the exclusive domain of state legislature or pass such orders or further orders as this Court may deem fit and proper in the circumstances of the case, and render justice.

Prayer in WP.No.4854 of 2009: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Declaration, declaring that Explanation to Sec.65(105) of the Finance Act, 1994 read with amended Rule 2(1)(d)(iv) of the Service Tax Rules, 1994 coming into effect from 16.6.2005 is ultra vires Sections 64, 65, 66, 67 and 68 of the Finance Act, 1994 and Art.265 of the Constitution of India and therefore requires to be declared invalid, or pass such orders or further orders as this Court may deem fit and proper in the circumstances of the case and render justice.

Prayer in WP.No.4855 of 2009: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Declaration, declaring Section 3(A) of the TNGST Act and 4 of TNVAT Act provides for levy of sales tax or VAT on the transfer of right to use goods as ultravires Article 14, 19(i)(g), 265 of the Constitution or pass such orders or further orders as this Court may deem fit and proper in the circumstances of the case and render justice.

Prayer in WP.No.4856 of 2009: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari, to call for the records comprised in Show Cause Notice No.20/2009 dated 17.02.2009 on the file of the second respondent and quash the same and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case and render justice.

(In all WPs)

For Petitioner :	Mr.Muthuvenkatraman and Mr.R.Bharanidharan
For Respondents:	Mr.V.Prashanth Kiran (for R4) Government Advocate No Appearance (for R1, R2 & R3)

COMMON ORDER

(Order of the Court was made by Dr.ANITA SUMANTH.,J.)

These four writ petitions are disposed by way of a common order, after hearing submissions of Mr.Muthuvenkatraman, learned counsel for the petitioner and Mr.V.Prashanth Kiran, learned Government Advocate for the Commercial Taxes Department. There is no appearance on behalf of the other respondents.

2.On instructions, learned counsel for the petitioner states that the petitioner does not wish to pursue the writ petitions in WP.Nos.4853, 4854 and 4855 of 2009 where the prayer is for writs of Declaration. An endorsement is made by Mr.Bharanidharan, learned counsel on record, recording which these writ petitions are dismissed as not pressed.

3.As regards WP.No.4856 of 2009, the challenge is to a show cause notice dated 17.02.2009. On instructions, learned counsel for the petitioner wishes to withdraw this writ petition and seeks liberty to file its reply before the assessing officer. No objection is laid to the aforesaid request.

4.Hence, WP.No.4856 of 2009 is dismissed, granting liberty to the petitioner to file its objection to show cause notice dated 17.02.2009 within a period of four (4) weeks from today. Upon receipt thereof, the matter shall be listed for personal hearing. All contentions are left open to be raised before the authority. The exercise of adjudication shall be completed within an overall period of twelve (12) weeks from today, in accordance with law. No costs. Connected miscellaneous petition is closed.

[A.S.M., J] [G.A.M., J]
07.11.2024

Index:Yes/No
Speaking order
Neutral Citation:Yes
vs
Note:Issue order copy on 08.11.2024.

To

1.The Secretary to Government,
Union of India,
Ministry of Finance, Department of Revenue,
New Delhi.

2.The Additional Director General,
Office of the Additional Director General,
Director General of Central Excise Intelligence,
C-3, 'C' Wing, Rajaji Bhavan,
Besant Nagar, Chennai-600 090.

3.The Commissioner of Central Excise,
Office of the Commissioner of Service Tax,
No.16, S.P. Complex, Lalbagh Road,
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4.The Secretary to Government,
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DR. ANITA SUMANTH,J.
and
G. ARUL MURUGAN.,J

vs

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