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W.P.No.36905 of 2005

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 06.03.2024

CORAM :

**THE HON'BLE MR.SANJAY V.GANGAPURWALA ,  
CHIEF JUSTICE  
AND  
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

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Consolidated Construction  
Consortium Limited,  
represented by its Vice  
President - Finance  
T.R.Seetharaman

.. Petitioner

**Versus**

1. Union of India, represented  
by the Secretary,  
Ministry of Finance,  
Department of Revenue,  
New Delhi.

2. Central Board of Excise & Customs,  
(Service Tax)  
Ministry of Finance,  
Department of Revenue,  
Government of India,  
New Delhi.

.. Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India  
seeking a Writ of Declaration declaring that Section 65(25b), Section



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65(30a) and Section 65(105)(zzzh) inserted by the Finance Act, 2005 in the Finance Act, 1994 (Act No.32 of 1994), to impose service tax on construction of a new building or a civil structure or part thereof, or repair, alteration, renovation or restoration in relation to building or civil structure are beyond the legislative competence of Parliament and ultra vires of Article 246(3) and Entry 54, List II of the Seventh Schedule to the Constitution of India, and resultantly the scheme of levy and recovery under the provisions are void and unenforceable as repugnant to Articles 14, 19(1)(g) and 265 of the Constitution of India.

For Petitioner : Mr.N.Prasad  
for Mr.N.Inbarajan

For Respondents : Mr.M.Santhana Raman,  
Senior Standing Counsel

### **ORDER**

(Order of the Court is made by the Hon'ble Chief Justice)

Heard Mr.N.Prasad, learned Counsel appearing on behalf of Mr.N.Inbarajan, learned Counsel for the petitioner and Mr.M.Santhana Raman, learned Senior Standing Counsel for the respondents.

2. The learned Counsel for the petitioner submits that during the pendency of the Writ Petition, the relief has been granted to the petitioner by the Customs, Excise & Service Tax Appellate Tribunal, Chennai in Final



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Order No.42898-42902 of 2017, by the order, dated 09.11.2017. In view of that, nothing would survive for adjudication in the present Writ Petition.

3. This Writ Petition, as such, is disposed of. There shall be no order as to costs. Consequently, W.P.M.P.No.39545 of 2005 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

06.03.2024

Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no

grs

To

1. The Secretary,  
Ministry of Finance,  
Department of Revenue,  
New Delhi.
2. Central Board of Excise & Customs,  
(Service Tax)  
Ministry of Finance,  
Department of Revenue,  
Government of India,  
New Delhi.



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**THE HON'BLE CHIEF JUSTICE  
AND  
D.BHARATHA CHAKRAVARTHY, J.**

grs

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