IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE C.SARAVANAN

W.P.Nos.40508 & 40701 of 2016 and
W.M.P.Nos.34541 & 34701 of 2016

M/s.Green Channel Cargo Care Private Limited,
No.81, Coral Merchant Street, II Floor,
Chennai 600001,
Represented by its Managing Director,
Shri.Pavan Kumar Reddy. ... Petitioner in W.P.No.40508 of 2016

M/s.Sri Selvaganapathy & Co.
2nd Floor, Old No.14, New No.31,
Moore Street, Chennai 600 001,
Represented by its Managing Partner,
Shri G.Selvaganapthy. ... Petitioner in W.P.No.40701 of 2016

Vs.

1.Union of India,
Ministry of Finance, Department of Revenue,
North Block, New Delhi – 110 001,
Represented by its Secretary.

2.The Central Board of Excise and Customs,
Ministry of Finance, Department of Revenue,
North Block, New Delhi – 110 001,
Represented by its Chairman.

3.The Commissioner of Service Tax (Appeals – I),
Newry Towers, 2054/1, II Avenue,
12th Main Road, Anna Nagar,
Chennai 600 040. ... Respondents in both WPs

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of

India, praying for the issuance of Writ of Declaration to declare the Rule 5 (1) of the Service Tax (Determination of Value) Rules, 2006 as Ultra Vires and unlawful.

W.P.No.40508 of 2016

For Petitioner	:	Mr.B.Satish Sundar
For Respondents	:	Mr.Rajendran Raghavan Senior Standing Counsel

W.P.No.40701 of 2016

For Petitioner	:	Mr.B.Satish Sundar
For Respondents	:	Mr.A.P.Srinivas Senior Standing Counsel

COMMON ORDER

(Order of the Court is made by *R.SURESH KUMAR, J.*)

The prayer sought for in these Writ Petitions is to declare the Rule 5 (1) of the Service Tax (Determination of Value) Rules, 2006 as Ultra Vires and unlawful.

2.The very same provision has already been under challenge. From a reported decision of the Delhi Hight Court, in ***2013 (29) STR 9 (Del.)*** in the matter of ***Intercontinental Consultants & Technocrats Pvt.Ltd Vs. Union of India*** by judgment dated 30.11.2012, the Delhi High Court had declared the said provision as ultra vires and accordingly, struck off. When this decision was appealed to the Hon'ble Supreme Court in ***Civil Appeal No.2013 of 2014 with***

C.A.Nos.295-299 etc., those cases also had been decided by the Hon'ble Supreme Court in ***Union of India Vs. Intercontinental Consultants & Technocrats Pvt.Ltd*** reported in ***2018 (10) G.S.T.L. 401 (S.C.),*** where the judgment of the Delhi High Court has been upheld.

3.In that view of the matter, since a quietus has been given where the provision which is under challenge in these Writ Petitions has already been struck down, these Writ Petitions have to be allowed.

4.Accordingly, these Writ Petitions stand allowed. Consequently, connected miscellaneous petitions are also closed. However, there shall be no order as to costs.

(R.S.K., J.) (C.S.N., J.)
07.11.2024

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

To

1.Union of India,
Ministry of Finance, Department of Revenue,
North Block, New Delhi – 110 001,
Represented by its Secretary.

<u>R.SURESH KUMAR, J.</u>
<u>AND</u>
<u>C.SARAVANAN, J.</u>

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2.The Central Board of Excise and Customs,
Ministry of Finance, Department of Revenue,
North Block, New Delhi – 110 001,
Represented by its Chairman.

3.The Commissioner of Service Tax (Appeals – I),
Newry Towers, 2054/1, II Avenue,
12th Main Road, Anna Nagar,
Chennai 600 040.

W.P.Nos.40508 & 40701 of 2016

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