IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No.826 of 2024
and
CMP.No.5739 of 2024

West Asia Maritime Limited
Represented by Mr. V.C. Ganesh
Deputy General Manager
Finance & Accounts, Buhari Towers
6th Floor, No.4, Moores Road
Chennai 600 006 .. Appellant

Versus

1. The Principal Commissioner,
Service Tax-I Commissionerate,
Office of the Principal Commissioner of Service Tax,
Newry towers, No.2054-I, II Avenue,
Annanagar, Chenna 600 040.

2. The Principal Commissioner,
Office of the Principal Commissioner of
GST & Central Excise,
No.26/1, Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034 .. Respondents

Appeal filed under Clause 15 of the Letters Patent praying to set aside the order dated 21.09.2022 passed by the learned Judge in W.P. No.122 of 2020.

For Appellant : Mr. Joseph Prabakar

For Respondents : Mr. Umesh Rao

JUDGMENT

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

Challenging the order dated 21.09.2022 passed by the learned Judge, dismissing the W.P. No.122 of 2020 filed by the appellant, the present writ appeal is filed.

2. The appellant has filed the aforesaid Writ Petition praying to issue a Writ of Certiorari calling for the records on the file of the first respondent in relation to the Order-in- Original dated 06.02.2017 and the consequential order dated 18.09.2018 passed by the second respondent and quash the same as arbitrary and illegal.

3. As per the affidavit filed in support of the writ petition, the appellant company had registered themselves with the respondents vide Service Tax Registration No. AAACW1023EST001 and they have been paying the service tax regularly. While so, a show cause notice dated 13.09.2015 was issued calling upon the appellant to show cause as to why service tax of Rs.1,98,10,777/- for the period from 01.04.2010 to 31.03.2013

towards supply of tangible goods and service be not recovered from them. The appellant attended personal hearing on 12.02.2016, 14.09.2016 and 15.11.2016 and also submitted written submissions supported by documents. Notwithstanding the same, the first respondent passed the order dated 06.02.2017 confirming the demand of service tax. According to the appellant, the order dated 06.02.2017 contains certain glaring and apparent errors relating to adoption of the data submitted in the returns filed by them. It is further stated that due to such errors in taking note of the data, excess service tax has been demanded in the order dated 06.02.2017. The appellant therefore filed a rectification application dated 25.07.2018 to rectify certain factual errors, as contemplated under Section 74 of the Finance Act, 1994 and to pass a fresh order. However, the rectification application itself was rejected on 18.09.2018 by the second respondent. Therefore, challenging the aforesaid orders, the writ petition No. 122 of 2020 came to be filed by the appellant.

4. Upon considering the rival submissions, the learned Judge by the order dated 21.09.2022 impugned herein, dismised the writ petition by concluding that there is no legal infirmity in the orders, which are challenged in the writ petition. However, the learned Judge granted liberty to the appellant to challenge the order dated 06.02.2017 by filing a statutory appeal and if any

such appeal is filed, a direction is issued to the appellate authority to entertain it without reference to the period during which the writ petition was pending before this Court.

5. Aggrieved by the order dated 21.09.2022 passed by the learned Judge in W.P. No. 122 of 2020, the present writ appeal is filed.

6. Today, when the writ appeal is taken up for hearing, it is reported by the learned counsel for the appellant that the appellant has already approached the appellate authority as directed by the learned Judge, and the appeal is pending consideration. Therefore, the learned counsel prayed for a direction to the appellate authority to consider and pass orders on the said appeal within a time frame to be stipulated by this court.

7. In view of the above submission made by the learned counsel for the appellant, this court directs the appellate authority to dispose of the appeal, if any, filed by the appellant, on merits and in accordance with law, after affording due opportunity of hearing to the appellant, as expeditiously as possible, preferably within a period of four weeks from the date of receipt of a copy of this judgment.

8. With the above said direction, this writ appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J] [M.S.Q., J]

13.03.2024

Index : Yes / No
Internet : Yes / No
av/rsh

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