BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.04.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.(MD) Nos.18177 of 2021 and 22968 and 23806 of 2022
and
W.M.P.(MD) Nos.15011 of 2021, 17065, 17066 and 17881 of 2022

In W.P.(MD) No.18177 of 2021:

K.Senthil Kumar ... Petitioner

/vs./

1.The Joint Commissioner,
Office of the Joint Commissioner of
CGST & Central Excise,
Central Revenue Buildings,
Bibikulam,
Madurai 625 002.

2.The Superintendent,
Central GST & Central Excise,
Sivagangai Range,
No.175-1, Gandhi Street,
Sivagangai 630 561. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order-in-original No.SCN No.04/2020-ST dated 30.08.2021 issued by the 1st respondent and the consequential impugned notice of 2nd respondent in O.C.No.155/2021 dated 08.09.2021 quash the same and consequently forbear the 1st respondent herein form in any manner recovering the service tax from the petitioner herein without following the due process of law.

For Petitioner : Mr.V.S.Kumaraguru

For Respondents : Mr.S.Gurumorthy
Standing Counsel

In W.P.(MD) No.22968 of 2022:

Lakshmi ... Petitioner

/vs./

1.The Deputy Commissioner,
Office of the Deputy Commissioner of
CGST & Central Excise,
Central Revenue Buildings,
Bibikulam,
Madurai 625 002.

2.The Assistant Commissioner,
Central GST & Central Excise,
Madurai II Division,
Central Revenue Buildings,
Bibikulam, Madurai 625 002.

3.The Superintendent,
Central GST & Central Excise,
Sivagangai Range,

No.175-1, Gandhi Street,
Sivagangai 630 561. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the 1st respondent impugned order-in-original dated 03.01.2022 vide File No.C.No.IV/09/87/2020-ST Adjn. and subsequent recovery notice dated 18.08.2022 in C.No.IV/9/59/2022 arrears, quash the same and consequently forbear the 1st respondent herein from in any manner recovering the service tax from the petitioner herein without following the due process of law.

For Petitioner : Mr.V.S.Kumaraguru
For Respondents : Mr.N.Dilip Kumar
Standing Counsel

In W.P.(MD) No.23806 of 2022:

Esakki Albert Moses ... Petitioner

/vs./

1.The Commissioner,
CGST & Central Excise,
Madurai – I Division, No.5,
V.P.Rathinasamy Nadar Road,
Bibikulam,
Madurai 625 002.

2.The Deputy Commissioner,
CGST & Central Excise,
Madurai – I Division, No.5,

V.P.Rathinasamy Nadar Road,
Bibikulam,
Madurai 2. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the impugned order dated 30.8.2022 passed in ORDER-IN-ORIGINAL NO.61/2022 by the 2nd respondent, quash the same.

For Petitioner : No appearance
For Respondents : Mr.N.Dilip Kumar
Standing Counsel

COMMON ORDER

In these writ petitions, the petitioners have challenged the impugned Orders in Original passed by the respondents in the respective writ petitions as detailed below:-

S.No	Writ Petition	Order in Original	Period	Respondent
1	W.P.(MD)No.18177 of 2021	MDU-ST-JC-16/2021 dated 30.08.2021	01.10.2014–30.06.2017	first respondent
2	W.P.(MD) No.22968 of 2022	MAD-ST-ASC-07-2022 dated 03.01.2022	01.04.2015-30.06.2017	first respondent
3	W.P.(MD) No.23806 of 2022	MAD-ST-000-DC-61/22 dated 30.08.2022	01.04.2015-30.06.2017	second respondent

2.By the impugned orders, the respondent has confirmed the service tax demand on the petitioner under the provisions of the Finance Act, 1994 and imposed further penalty under Sections 78 and 77(1)(a) of the Finance Act, 1994 for the period between 01.10.2014 – 30.06.2017 and 01.04.2015 – 30.06.2017 respectively.

3.As a matter of fact, the issue on merits has been confirmed against the petitioner by the decision of the Division Bench of this Court on 30.11.2022 rendered in a batch of Writ Petitions in W.P.Nos.24996 of 2019 and batch. Further appeal to the Hon'ble Supreme Court appears to have been dismissed. Therefore, there is no merit in these writ petitions.

4.Therefore, these Writ Petitions are liable to be dismissed. They are accordingly dismissed. Liberty is given to the petitioners to workout their remedy before the appellate Commissioner under Section 85 of the Finance Act, 1994 within a period of 30 days from the date of receipt of a copy of this order if they desire. In case the petitioners file appeals, the Commission may take up the appeals and dispose of the same on merits and in accordance with law without reference to the delay caused in filing the appeals. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
mm

08.04.2024

C.SARAVANAN, J.

mm

W.P.(MD) Nos.18177 of 2021 and 22968 and 23806 of 2022

08.04.2024