BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2024

CORAM

THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).Nos.23590 and 23591 of 2024
and
W.M.P.(MD).Nos.19975, 19977, 19981 and 19982 of 2024

W.P.(MD).No.23590 of 2024

M/s.Sharp Security Services,
Represented by its Partner Sri.Antony Arul Auric. ... Petitioner

Vs.

1.The Commissioner of GST and Central Excise,
Trichy Commissionerate,
No.1, Williams Road,
Cantonment,
Tiruchirappalli – 620 001.

2.The Assistant Commissioner of GST and Central Excise,
Trichy I Division,
No.1, Williams Road,
Cantonment,
Tiruchirappalli – 620 001. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the second respondent in passing the impugned order in original No.231/2022 dated 29.06.2022 and quash the same as the same lacks jurisdiction, since the same has been passed in contravention of Section 37C of the erstwhile Central Excise Act, 1944 which is made applicable to Service Tax vide Section 83 of the erstwhile Finance Act, 1994, Section 73 of the Finance Act, 1994 and Articles 14, 19(1)(g) and 265 of the Constitution.

W.P.(MD).No.23591 of 2024

M/s.Sharp Security Services,
Represented by its Partner Sri.Antony Arul Auric. ... Petitioner

Vs.

1.The Commissioner of GST and Central Excise,
Trichy Commissionerate,
No.1, Williams Road,
Cantonment,
Tiruchirappalli – 620 001.

2.The Assistant Commissioner of GST and Central Excise,
Trichy I Division,
No.1, Williams Road,
Cantonment,
Tiruchirappalli – 620 001. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the second respondent in passing the impugned order in original No.270/2022-ST ADJN dated 29.06.2022 and quash the same as the same lacks jurisdiction, since the same has been passed in contravention of Section 73 of the Finance Act, 1994 and Articles 14, 19(1)(g) and 265 of the Constitution.

For Petitioner : Mr.G.Natarajan

For Respondents : Mr.N.Dilipkumar
Senior Standing Counsel
(In both Writ Petitions)

COMMON ORDER

The present Writ Petitions are filed challenging the impugned orders passed by the second respondent dated 29.06.2022 for the period from 2015-2016 to 2017-2018.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a partnership firm and engaged in providing security services. The petitioner is registered under the Finance Act, 1994 and discharging appropriate service tax since 08.03.2012. It is submitted that the services stated to have been rendered by the petitioner was liable on reverse charge basis with effect from 01.07.2012 in terms of Notification No.30/12 – ST dated 20.06.2012, as amended by Notification No.45/12 – ST dated 07.08.2012. However, the second respondent has passed the impugned order treating the entire security services as liable to tax vide impugned orders dated 29.06.2023. It is submitted that the petitioner was not served with any notice nor the orders.

3. The question as to whether there was a valid service or completed service is essentially a question of fact.

4. At this juncture, the learned counsel for the petitioner seeks liberty of this Court to file an appeal, which was not objected to by the learned Senior Standing Counsel for the respondents.

5. In view thereof, the petitioner may file an appeal before the Appellate Authority, if so advised, within a period of two (2) weeks from the date of receipt of a copy of this order. If any such appeal is filed, the same shall be entertained by the Appellate Authority without reference to limitation subject to complying with all other conditions relating to filing of appeal and orders shall be passed in accordance with law after affording a reasonable opportunity of hearing to the petitioner.

6. Accordingly, the Writ Petitions are disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

03.10.2024

Index : Yes / No
Internet : Yes/ No
Lm

To

1. The Commissioner of GST and Central Excise,
   Trichy Commissionerate,
   No.1, Williams Road,
   Cantonment,
   Tiruchirappalli – 620 001.

2. The Assistant Commissioner of GST and Central Excise,
   Trichy I Division,
   No.1, Williams Road,
   Cantonment,
   Tiruchirappalli – 620 001.

MOHAMMED SHAFFIQ, J.

Lm

W.P.(MD).Nos.23590 and 23591 of 2024

03.10.2024