BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2024

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).No.25418 of 2024
and
W.M.P.(MD).Nos.21568 and 21569 of 2024

M/s.Pudukkottai Municipality,
presently re-designated as
City Municipal Corporation,
Represented by it's the Commissioner,
D.Narayanan,
2289/3, West 3rd Street, Santhapettai,
Pudukkottai – 622 001. ... Petitioner

Vs.

The Assistant Commissioner of Central Tax,
Office of the Assistant Commissioner of GST and Central Excise,
Thanjavur Division, Ponnagar,
Medical College Road,
Thanjavur – 613 007. ...Respondent

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 pertaining to the impugned order passed by the respondent vide his order in Orders-in-Original No.74/2023 dated 13.06.2023 and quash the same as it is illegal, without jurisdiction and in gross violations of the principles of natural justice.

For Petitioner : Mr.K.Sankaranarayanan
For Respondent : Mr.R.Nandakumar
Senior Standing Counsel

ORDER

The present Writ Petition is filed challenging the impugned order passed by the respondent dated 13.06.2023.

2. It is submitted by the learned counsel for the petitioner that the petitioner has rented immovable property and has discharged their obligation in terms of Article 243W of the Constitution of India. It was thus submitted that the service may not fall within the purview of the Finance Act, 1994 and the levy of service tax is wholly without jurisdiction. It was further submitted that though the impugned order dated 13.06.2023 was served to their Clerk, the Clerk has not intimated/informed the same to the appropriate authority to enable the Municipality to file an appeal as they are aggrieved by the impugned order. It was submitted that the entire levy of tax is without jurisdiction and the same falls foul of Article 265 of the Constitution. It was also submitted that close to 70% of the demand has already been recovered.

3. It was submitted by the learned Senior Standing Counsel for the respondent that the impugned order of assessment involves disputed questions

of fact and therefore, this Court should exercise restraint and not entertain the Writ Petition under Article 226 of the Constitution.

4. At this juncture, the learned counsel for the petitioner would submit that they may be permitted to file an appeal before the appropriate authority within a period of two (2) weeks from the date of receipt of a copy of this order, which was not objected by the learned Senior Standing Counsel for the respondent.

5. In view thereof, the Writ Petition stands disposed of granting liberty to the petitioner to file an appeal before the appropriate authority 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 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. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

23.10.2024

Index : Yes / No
Internet : Yes/ No
Lm

To
The Assistant Commissioner of Central Tax,
Office of the Assistant Commissioner of GST and Central Excise,
Thanjavur Division, Ponnagar,
Medical College Road,
Thanjavur – 613 007.

MOHAMMED SHAFFIQ, J.

Lm

W.P.(MD).No.25418 of 2024

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