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W.P.No.28138 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.01.2025

Coram:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.No.28138 of 2021
and W.M.P.Nos.29736 & 29738 of 2021**

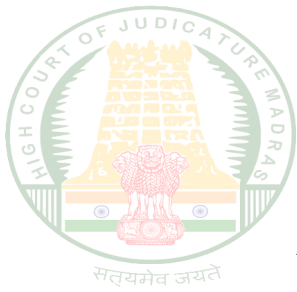
New Sun International Travel Agency,
Represented by its Proprietor Mr.Abdul Kader,
No.17, First Avenue, Stonage Towers,
Ground Floor, Ashok Nagar,
Chennai – 600 083.

...Petitioner

Versus

- 1.The Additional Commissioner of GST & Central Excise,
South Commissionerate,
No.962, M.H.U Complex Nandanam,
Chennai – 600 035.
- 2.The Joint Commissioner of GST & Central Excise,
Vadapalani Division, South Commissionerate,
Newry Towers, Ground Floor,
Plot No.2054, First Block, 2nd Avenue,
12th Main Road, Anna Nagar, Chennai – 600 040.
- 3.The Assistant Commissioner of GST & Central Excise,
Vadapalani Division, South Commissionerate,
Newry Towers, Ground Floor, Plot No.2054,
First Block, 2nd Avenue, 12th Main Road,
Anna Nagar, Chennai – 600 040.

...Respondents



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Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the proceedings of the respondent no.1 made in C.No.V/15/165/2018-CS Adj dated 09.05.2019 and quash the same as far as petitioner is concern.

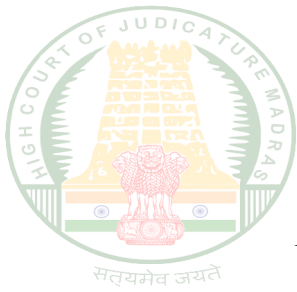
For Petitioner : Mr.S.Senthilnathan
for Mr.M.Manimaran
For Respondents : Mr.K.Umesh Rao,
Senior Standing Counsel

ORDER

Heard Mr.S.Senthilnathan, learned counsel for the petitioner and Mr.K.Umesh Rao, learned Senior Standing Counsel for the respondents.

2. The petitioner herein is engaged in the business of travel and tourism. The petitioner has been promptly paying all the statutory taxes. While so, the petitioner received a Letter bearing OC.No.45 of 2019 dated 22.08.2019 from the Superintendent, Vadapalani Range-IV, Chennai South Commissionerate, Chennai, wherein, it has been stated as follows:

*“To
M/s.New Sun Travels,
No.17, Stoneage Towers,
1st Avenue, Ashok Nagar,
Chennai – 600 083.*



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Dear Tax Payer,

//MOST URGENT//

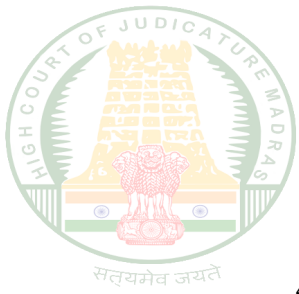
*Sub: Service Tax – Order-In-Original No.42/2019 dated
09.05.2019 – M/s. New Sun Travels – Reg.*

.....
*Please refer to the Order-In-Original No.42/2019-ADC dated
09.05.2019 issued by Additional Commissioner, Chennai South
Commissionerate, wherein, a demand of Service Tax of Rs.74,39,557/-
along with interest and Penalty of Rs.76,96,179/- was confirmed.*

*Hence, you are requested to pay the amount as demanded in the
above Order and submit the details of payment made in this regard to this
Office, or if any appeal intends to file against the OIO, details thereof may
also be furnished to this Office immediately.”*

Aggrieved over the same, the petitioner has filed the present writ petition before this Court seeking to quash the Order-In-Original No.42/2019-ADC bearing C.No.V/15/165/2018-CS Adj dated 09.05.2019 passed by the 1st respondent.

3. The case of the petitioner is that the petitioner firm is carrying on its business in the name and style of 'New Sun International Travel Agency'. A proprietary firm viz., M/s.New Sun Travels which was carrying on similar business has closed its business activities on 10.02.2012. The said firm has committed default and hence, it was served with Show Cause Notice No.89/2011 dated 19.12.2011 by the respondents.

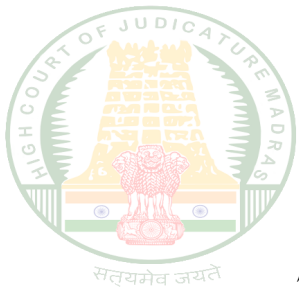


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4. Thereafter, the 1st respondent issued Order-In-Original No.42/2019-ADC bearing C.No.V/15/165/2018-CS Adj dated 09.05.2019, confirmed the demand of Service Tax of Rs.74,39,557/- along with interest and Penalty of Rs.76,96,179/- for the period from 2006-07 (October 2006) to 2009-10 in terms of Section 73(2) of Finance Act, 1994 r/w. proviso to Section 73(1) to the proprietary firm, M/s.New Sun Travels.

5. Further, it is case of the petitioner is that the petitioner firm, M/s.New Sun International Travel Agency is different from the M/s.New Sun Travels against whom the Order-In-Original No.42/2019-ADC bearing C.No.V/15/165/2018-CS Adj dated 09.05.2019 was passed by the 1st respondent. Since the name of said firm and petitioner firm are almost identical, the respondents have attempted to recover the dues of M/s.Sun Travels from the petitioner firm, M/s.New Sun International Travel Agency.

6. As far as this case is concerned, this Court is of the opinion that there is no merit in the present writ petition.



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7. If it is the specific case of the petitioner that the petitioner firm, M/s.New Sun International Travel Agency and M/s.Sun Travels are two different entities and hence, the Order-In-Original No.42/2019-ADC bearing C.No.V/15/165/2018-CS Adj dated 09.05.2019 passed by the 1st respondent confirming the demands against the petitioner cannot be maintained and enforced against the petitioner, it is open for the petitioner to take such a stand, as and when, a recovery notice is issued against the petitioner to recover the sum confirmed in the impugned order in Order-In-Original No.42/2019-ADC bearing C.No.V/15/165/2018-CS Adj dated 09.05.2019.

8. In the result, this writ petition is dismissed with above liberty. No costs. Consequently, connected miscellaneous petitions are closed.

07.01.2025

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Index : Yes/No

Speaking Order (or) Non-Speaking Order



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C.SARAVANAN, J.

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