BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.12489 of 2025
and
W.M.P.(MD)Nos.9097 and 9100 of 2025

M/s.A.Savariraj,
No.4539, Koil Street,
Thanjavur – 613005. ... Petitioner

-vs-

The Assistant Commissioner of GST and Central Excise,
Thanjavur Division, Ponnagar, Medical College Road,
Thanjavur. ... Respondent

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, seeking issuance of a Writ of Certiorarified Mandamus, to call for the records on the files of the respondent in Order-in-Original No.78/2023-ST, dated 20.06.2023 and to quash the same as illegal, arbitrary, without jurisdiction and consequently, direct the respondent to pass an order afresh by considering exemption under Entry 13(C) of the Mega Exemption Notification No.25/2012-ST, dated 20.06.2012.

For Petitioner	:	Mr.S.Karunakar
For Respondent	:	Mr.N.Dilip Kumar Senior Standing Counsel

ORDER

This Writ Petition is filed seeking to quash the order passed by the respondent, dated 20.06.2023 and a consequential direction to the respondent to pass an order afresh by considering exemption under Entry 13(C) of the Mega Exemption Notification No.25/2012-ST, dated 20.06.2012.

2. With the consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

3. The learned counsel appearing for the petitioner submits that the petitioner had undertaken the construction of churches for religious institutions, which are exempted from service tax under Entry No.13(C) of Notification No. 25/2012-ST, dated 20.06.2012. However, the respondent, under the mistaken belief that the petitioner was engaged in taxable services, passed the impugned order. Therefore, the order impugned in this writ petition, is liable to be set aside

4. Mr.N.Dilip Kumar, learned Senior Standing Counsel appearing for the respondent submits that, as against the impugned order, the petitioner has an alternative remedy of appeal before the Commissioner of Central Excise

(Appeals) under Section 85 of the Finance Act. However, without invoking the appeal remedy, the petitioner has straightaway approached this Court.

5. Recording the submission made by the learned Senior Standing Counsel that the petitioner is having an appeal remedy before the Commissioner of Central Excise (Appeals) under Section 85 of the Finance Act, this writ petition is disposed of, with liberty to the petitioner to approach the appellate authority and raise all the grounds raised in this writ petition in the appeal. In the event, if any appeal is filed within a period of one month from the date of receipt of a copy of this order, the appellate authority shall entertain the appeal without reference to the period of limitation and dispose of the same in accordance with law, within a period of five months thereafter. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No
Index : Yes / No
smn2

29.04.2025

To:-

The Assistant Commissioner of GST and Central Excise,
Thanjavur Division, Ponnagar, Medical College Road,
Thanjavur.

VIVEK KUMAR SINGH, J.

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W.P.(MD)No.12489 of 2025

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