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Filing Number	WA /74617/2021	Filing Date	24-08-2021
Registration Number	WA /2318/2021	Registration Date	07-09-2021
CNR Number	HCMA01-104003-2021		

Case Status

First Hearing Date	
Next Hearing Date	09th December 2021
Stage of Case	FOR ADMISSION
Coram	16752-Honourable Mr Justice T. S. SIVAGNANAM , Honourable Mr Justice SATHI KUMAR SUKUMARA KURUP
Bench Type	Division Bench
Judicial Branch	JUDICIAL SECTION
State	TAMIL NADU
District	Chennai

Petitioner and Advocate

1) UNION OF INDIA
Advocate- R.HEMALATHA
2) THE ASSISTANT COMMISSIONER OF CENTRAL EXCISE
3) TAMIL NADU AUTHORITY FOR ADVANCE RULING(GST)

Respondent and Advocate

1) M/S.TVH LUMBINI SQUARE OWNERS ASSOCIATION
Advocate - m/s.s.jaikumar
pallavi ganesh for sole respondent,sanjana sri s.g.b.m.nithya,M.KARTHIKEYAN-MS/1868/2010,G.NATARAJAN-MS/899/2003

Acts

Under Act(s)	Under Section(s)
UC 15 of Letters Patent Act	1

Category Details

Category	Service Tax (141)

High Court Information

Court Number and Name : —
Case Number and Year : - 0027100 - 2019
: —
District :
Case Decision Date : Order Date : 01-07-2021

Sub Matters

Case Number :	CMP/14700/2021
Case Number :	CMP/14059/2021

Linked Cases

Filing Number2	Case Number
WA/74617/2021 (main)	WA/2318/2021 (main)
CMP/74628/2021	CMP/14700/2021

History of Case Hearing on Filing Number

Cause List Type	Judge	Business On Date	Hearing Date	Purpose of hearing
	Honourable Mr Justice T. S. SIVAGNANAM , Honourable Mr Justice SATHI KUMAR SUKUMARA KURUP	01-09-2021		MISCELLANEOUS PETITIONS

History of Case Hearing

Cause List Type	Judge	Business On Date	Hearing Date	Purpose of hearing
Regular List	Honourable Mr Justice T. S. SIVAGNANAM , Honourable Mr Justice SATHI KUMAR SUKUMARA KURUP		09-09-2021	FOR ADMISSION
Regular List	Honourable Mr Justice T. S. SIVAGNANAM , Honourable Mr Justice SATHI KUMAR SUKUMARA KURUP	09-09-2021	09-12-2021	FOR ADMISSION

Order not uploaded by concerned court

Document Details

Sr. No.	Document No.	Date of Receiving	Filed by	Name of Advocate	Document Filed
1	1	09-09-2021	UNION OF INDIA		DOCKET
2	2	09-09-2021	UNION OF INDIA		ORDER SHEET
3	3	09-09-2021	UNION OF INDIA		Index
4	4	09-09-2021	UNION OF INDIA		Synopsis
5	5	09-09-2021	UNION OF INDIA		Coding Sheet
6	6	09-09-2021	UNION OF INDIA		Court Fee Papers
7	7	09-09-2021	UNION OF INDIA		Grounds
8	8	09-09-2021	UNION OF INDIA		Memo of Appearance
9	9	09-09-2021	UNION OF INDIA		Batta
10	10	09-09-2021	UNION OF INDIA		Typed Set

OBJECTION

Sr.No.	Scrutiny Date	OBJECTION	OBJECTION Compliance Date	Receipt Date
1	07-09-2021	All Objections are Complied		

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W.A.Nos.2318 and 2321 of 2021

T.S.SIVAGNANAM, J.
AND
SATHI KUMAR SUKUMARA KURUP

(Order of the Court was made by T.S.SIVAGNANAM, J.)

Heard Mrs.R.Hemalatha, learned Senior Standing Counsel appearing for the appellants. The following four propositions of law are raised by the appellants in these appeals.

"1. As per Section 15, it is the transaction value that is subjected to GST and transaction value would be the entire amount contributed towards the maintenance charges. The transaction value cannot be bifurcated. Since no exemption is granted when the amount exceeds Rs.7500/- the entire transaction value would be subjected to tax.

2. The word 'upto' can be interpreted in both ways. It could either mean exemption is granted only when the transaction value is less than Rs.7500/- or exemption is granted only for Rs.7500/- when the transaction value is more than 7500/-.

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3. Under the negative list approach, with effect from 1 July, 2012, notification No.25/2012-ST [sl.no.28 (c)] provides for exemption to service by a RWA to its own members by way of reimbursement of charges or share of contribution up to five thousand rupees per month per member for sourcing of goods or services from a third person for the common use of its members.

> 3.1 Clarification was issued through the Circular no. 175/01/2014 – ST dated 10.01.2014 saying if the contribution per member exceeds Rupees Five thousand, the entire contribution of such members whose contribution exceeds five thousand rupees would be ineligible for exemption under the said notification.
> 3.2 Exemption granted under GST is merely the adoption of the above mentioned exemption under Service Tax.

4. The exemption is intended for middle class and not for the owners of luxury apartments. The legislative intention could be seen in the Budget speech 2012-13 where the exemption for the monthly charges payable by a member to housing society was raised from Rs.3000 to Rs.5000. While discussing about Affordable Housing Scheme, it was said that the said proposal is to make the life of those who own an apartment a little easier.

Therefore, no exemption is applicable when the monthly contribution exceeds Rs.7500."

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2. On elaborately hearing the learned Senior Standing Counsel for the appellants, we are of the view that the legal issue has to be decided as because the learned Single Bench not only quashed the proceedings of the Tamil Nadu Authority for Advanced Ruling, but also the Circular issued by the Department, which needs verification. Therefore, we entertain these appeals, accordingly, both the appeals are admitted.

3. Notice to the respondents is accepted by Mr.G.Natarajan, learned Standing Counsel. The learned Senior Standing Counsel is directed to serve one set of appeal papers to the learned Standing Counsel who is accepted notice for the respondents.

4. Post these appeals on 09.12.2021.

(T.S.S.J.) (S.S.K.J.)
09.09.2021

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T.S.SIVAGNANAM, J.
AND
SATHI KUMAR SUKUMARA KURUP

Sgl

HIGH COURT OF JUDICATURE MADRAS
सत्यमेव जयते

W.A.Nos.2318 and 2321 of 2021

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09.09.2021

C.M.P.Nos.14700 and 14708 of 2021
in
W.A.Nos.2318 and 2321 of 2021

T.S.SIVAGNANAM, J.
AND
SATHI KUMAR SUKUMARA KURUP

(Order of the Court was made by T.S.SIVAGNANAM, J.)

Since the circular has wider ramification, that portion of the order passed in the writ petitions, shall remain stayed until further orders.

(T.S.S.J.) (S.S.K.J.)
09.09.2021

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T.S.SIVAGNANAM, J.
AND
SATHI KUMAR SUKUMARA KURUP

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C.M.P.Nos.14700 and 14708 of 2021 in
W.A.Nos.2318 and 2321 of 2021

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09.09.2021

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