

THE HON'BLE SRI JUSTICE P.SAM KOSHY
AND
THE HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY
WRIT PETITION No.21384 of 2023

ORDER: *(per Hon'ble Sri Justice P.SAM KOSHY)*

The present writ petition has been filed assailing the order dated 31.03.2023 passed by the respondent No.3/Additional Commissioner, (Appeals-II) vide Appeal No: 48/2022 (SC) GST, affirming the order dated 18.11.2021 passed by the respondent No.1/The Superintendent of Central Tax vide ORDER-IN-ORIGINAL NO. 02/2021-22-(GST).

2. Heard Sri Basavaraj Bala Krishna, learned counsel for the petitioner and Sri Dominic Fernandes, learned counsel for the respondent-Department.

3. The point of law in issue was, the non-requirement to pay GST on the guarantee/security to the bank provided by the Managing Director by providing the personal properties as security and personal guarantee. The order of the respondent No.1 rejecting the contention of the petitioner was affirmed also by the respondent No.3 in Appeal.

4. Today during the course of hearing, the learned counsel for the respondent-Department had produced the Notification No. 13/2017- Central Tax (Rate) dated 28.06.2017 wherein the Government of India, Ministry of Finance (Department of Revenue) had notified in the table certain categories of supply of services supplied by a person to be liable of tax on the reverse charge basis. Clause 6 of the said notification for ready reference is reproduced herein under:

Table

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
(1)	(2)	(3)	(4)
6	<i>Services supplied by a director of a company or a body corporate to the said company or the body corporate.</i>	<i>A director of a company or a body corporate</i>	<i>The company or a body corporate located in the taxable territory.</i>

5. The petitioner in the instant case is banking on the personal properties provided by the Managing Director as security and personal guarantee provided for the company which seeking exemption from payment of GST.

6. A plain reading of the notification referred to in the preceding paragraphs would clearly give an indication that the Central Government vide the said notification had specifically notified that the services provided by the Director of a company

or a body corporate to the said company or said body corporate be leviable of tax on reverse charge basis and in the said event, the company would become liable to pay the tax for the said services. The said notification is also not under challenge and the same still holds good.

7. In the teeth of the said notification, the finding arrived at by the respondent No.1 at the first instance dated 18.11.2021 and the order in original dated 31.03.2023 passed by the respondent No.3 also cannot be said to be in any manner erroneous, arbitrary or bad in law. We also do not find any strong case made out by the petitioner calling for interference with the said impugned order.

8. The writ petition fails and is accordingly rejected. No costs.

As a sequel, miscellaneous petitions, pending if any, shall stand closed.

P.SAM KOSHY, J

LAXMI NARAYANA ALISHETTY, J

Date: 27.09.2023
GSD