

|                     |                    |                   |            |
|---------------------|--------------------|-------------------|------------|
| 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**

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

**Respondent and Advocate**

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|---|
| 1) M/S.TVH LUMBINI SQUARE OWNERS ASSOCIATION<br>Advocate - m/s.s.jakumar,<br>pallavi ganesh for sole respondent,sarjana sri s.g.b.m.nithya,M.KARTHIKEYAN-MS18682010,G.NATARAJAN-MS8992003 |
|---|

**Acts**

| Under Act(s)                 | Under Section(s) |
|------------------------------|------------------|
| L/C-15 of Letters Patent Set | 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 |                  | Barrs              |
| 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 |                           |              |

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/-.

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."

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**

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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.)

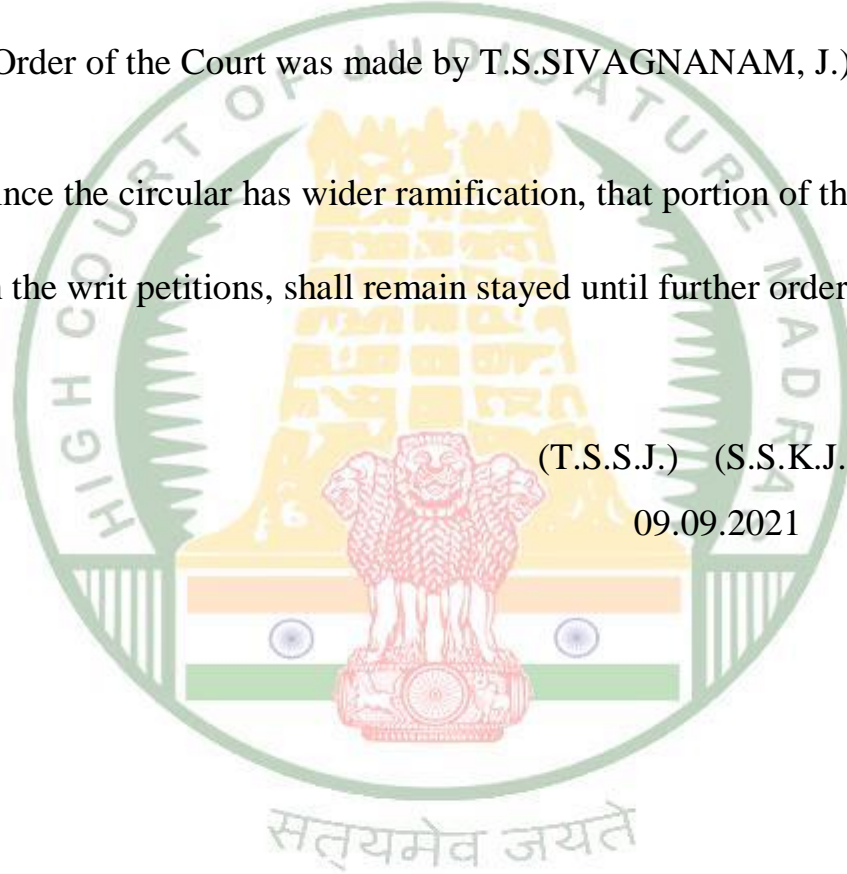
Since the circular has wider ramification, that portion of the order passed in the writ petitions, shall remain stayed until further orders.

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

09.09.2021

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C.M.P.Nos.14700 and 14708 of 2021

T.S.SIVAGNAM, 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