

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Special Original Jurisdiction )

Friday, the Tenth day of January Two Thousand Fourteen

PRESENT

THE HON'BLE MR. RAJESH KUMAR AGRAWAL, THE CHIEF JUSTICE

and

THE HON'BLE MR. JUSTICE M. SATHYANARAYANAN

WP.No.995 of 2014

and MP.No.1 of 2014

THE SOUTH INDIA HOTELS AND RESTAURANTS ASSOCIATION, REP. BY ITS HONORARY SECRETARY MR. T. NATARAJAN, REGISTRATION NO.43 OF 1951-52, M-1, PRINCE CENTRE, NO.709-710, ANNA SALAI, CHENNAI-6

[PETITIONER IN BOTH THE PETITIONS]

THE GOVERNMENT OF TAMILNADU REP. BY ITS SECRETARY, COMMERCIAL TAXES AND REGISTRATION DEPARTMENT, ST. GEORGE FORT, CHENNAI-9

[RESPONDENTS IN BOTH THE PETITIONS]

2 THE COMMISSIONER OF COMMERCIAL TAXES, GOVERNMENT OF TAMILNADU, GREAMS ROAD, CHENNAI-6

3 THE MANAGING DIRECTOR TASMAL LTD., CMDA TOWER, 4TH FLOOR, NO.8, GANDHI IRWIN ROAD, EGMORE, CHENNAI-8

Writ Petitions under Article 226 of the Constitution of India praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to

- (i) Issue a Writ of Declaration or any other appropriate writ, order or direction in the nature of a Writ of Declaration Section 1(2)
- (b) of the Tamil Nadu Value Added Tax (5<sup>th</sup> Amendment) Act, 2013, as published in the Tamil Nadu Government Gazette No.329 dated 08.11.2013 in so far as it relates to the members of the petitioner's Association is concerned, as arbitrary, unjust, illegal, unconstitutional and unenforceable in law (in WP.No.995/2014)and



AT 0065205

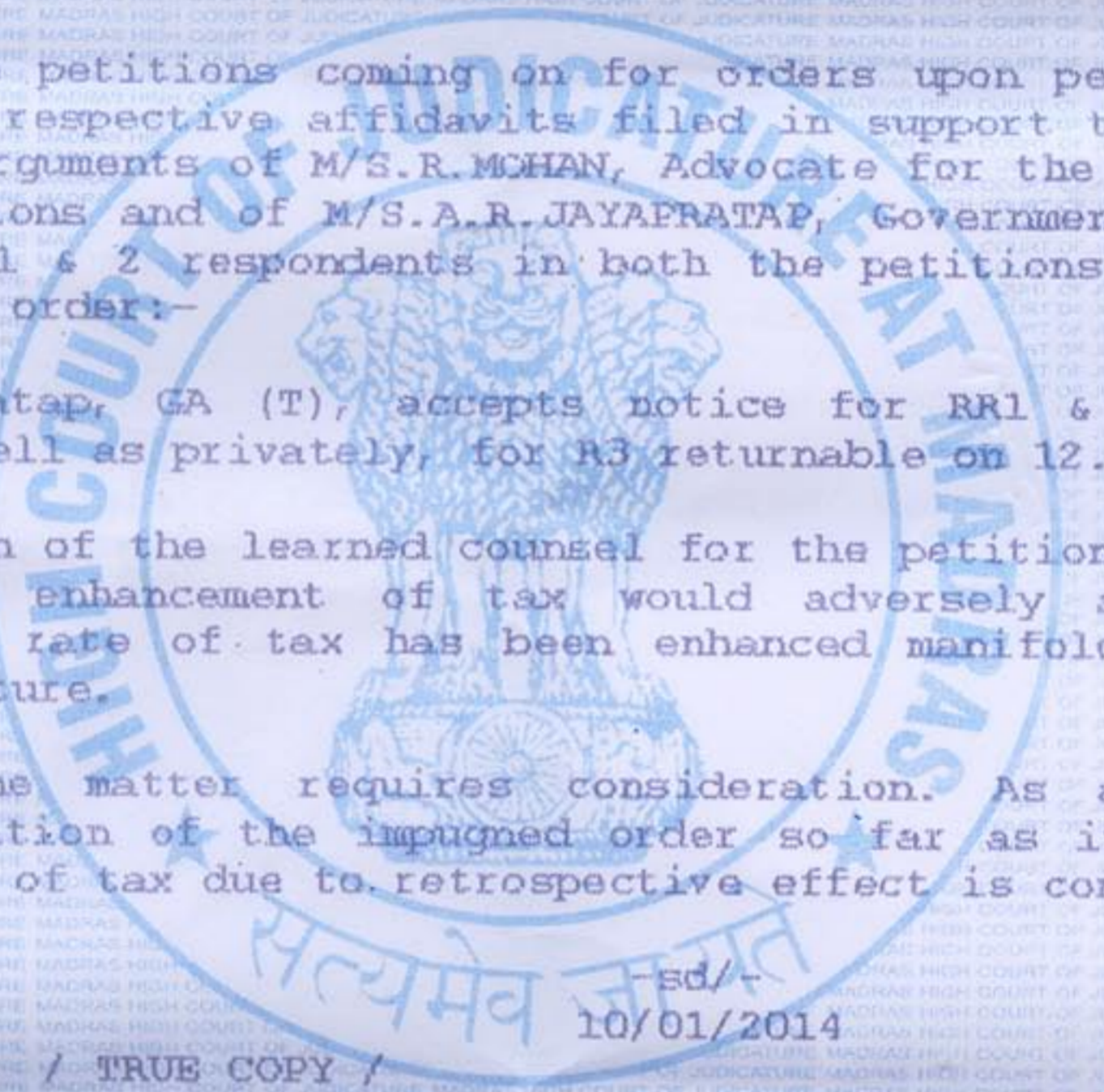
(ii) Grant interim stay of all further proceedings, pursuant to the communication of the 3<sup>rd</sup> respondent dated 09.11.2013 in letter reference No.B2/4841/2013 in so far as it relates to the demand of Value Added Tax at second point level with retrospective effect from 01.04.2013, from the members of the petitioner's Association sought to be remitted at second point of tax with retrospective effect from 01.04.2013, consequent to the impugned act viz., Tamil Nadu Value Added (5<sup>th</sup> Amendment) Act, (Act 28 of 2013) as notified in the Tamil Nadu Government Gazette in Gazette No.329 dated 08.11.2013 (in MP.No.995/2014) pending disposal of the above WP.No.995/2014 respectively.

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.R.MOHAN, Advocate for the petitioner in both the petitions and of M/S.A.R.JAYAPRATAP, Government Advocate on behalf of the 1 & 2 respondents in both the petitions the court made the following order:-

Mr.A.R.Jayapratap, GA (T), accepts notice for R1 & 2. Notice through court as well as privately, for R3 returnable on 12.02.2014.

The contention of the learned counsel for the petitioner is that the retrospective enhancement of tax would adversely affect the petitioner as the rate of tax has been enhanced manifold which is confiscatory in nature.

Therefore, the matter requires consideration. As an interim measure, the operation of the impugned order so far as it seeks to recover the amount of tax due to retrospective effect is concerned, is stayed.



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*N. G. M. 2014*  
Sub-Assistant Registrar | Statistics / C.S. |

High Court, Madras - 600 104.

TO  
1 THE SECRETARY,  
THE GOVERNMENT OF TAMILNADU,  
COMMERCIAL TAXES AND REGISTRATION  
DEPARTMENT, ST. GEORGE FORT,  
CHENNAI-9.

2 THE COMMISSIONER OF  
COMMERCIAL TAXES, GOVERNMENT OF  
TAMILNADU, GREAMS ROAD, CHENNAI-6

AT 0065206

3 THE MANAGING DIRECTOR  
TASMAC LTD., CMDA TOWER, 4TH FLOOR,  
NO.8, GANDHI IRWIN ROAD, EGMORE,  
CHENNAI-8

C.C. to M/S.R.MOHAN Advocate, SR.No.590.

The Government Advocate, High Court, Madras - 104.



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