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W.P.Nos. 6280 of 2016 etc batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2025

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER
KUMAR

W.P.Nos. 6280, 6281 & 6282 of 2016
and
W.M.P.Nos. 5591 & 5592 of 2016

The Greater Chennai Police Commissionerate
Rep. By its Commissioner of Police,
Vepery, Chennai - 600 007.

.. Petitioner
in all writ petitions

vs

1.Union of India

Rep. By its Secretary,
Ministry of Finance (Department of Revenue),
Room No.46, North Block,
New Delhi – 110 001.

2.Government of India

Rep. By its Secretary,
Ministry of Home Affairs,
North Block, New Delhi – 110 001.

3.The Principal Commissioner of GST & Central Excise,
Chennai North Commissionerate,
No.26/1, Uttamar Gandhi Salai,
Chennai – 600 034.

4.The Assistant Commissioner of GST & Central Excise,
Parrys Division,



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Chennai North Commissionerate – I,
First Floor, Newry Towers,
Plot No.2054 – 1, I Block, 12th Main Road,
II Avenue, Anna Nagar,
Chennai – 600 040.

*(Respondents amended / ordered
vide memo dated 09.12.2025
by this Court vide this order)*

.. Respondents
in all writ petitions

Prayer in W.P.No. 6280 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of declaration declaring the activities of the petitioner under the provisions of the Tamil Nadu District Police Act, 1859 and the Chennai City Police Act, 1888 and under the relevant Government Orders of the State of Tamil Nadu as being outside the scope of the Chapter V and VA Finance Act, 1994.

Prayer in W.P.No. 6281 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari to call for records of the impugned Order-in-Original No.CHN-SVTAX-001-COM-52&53-2015-2016 dated 14.10.2015 passed by the 3rd respondent and quash the same.

Prayer in W.P.No. 6282 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondent no.1 to issue suitable instruction to subordinate officers to not to propose, demand and / or levy service tax on the petitioner for the statutory service rendered under the provision of the Tamil Nadu District Police Act, 1859, The Chennai Police Act, 1888 (Formerly the Madras City Police Act, 1888) and relevant Government Order issued by the Government of Tamil Nadu.

For Petitioner : Mr.R.Anishkumar
(in all writ petitions)

For Respondents : Mr.K.Mohana Murali
Senior Panel Counsel
(in all writ petitions)



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COMMON ORDER

(Made by Dr. ANITA SUMANTH, J.)

A common order is passed in these three writ petitions as the issue that arises for decision is the same across all the matters.

2. The prayer in W.P.No. 6280 of 2016 is for a Declaration that the activities of the petitioner rendered under the Tamil Nadu District Police Act, 1859, the Chennai Police Act, 1888 (formerly the Madras City Police Act, 1888) (referred to hereinafter as ‘enactments’/‘relevant enactments’) and Government Orders issued by the State of Tamil Nadu, are outside the scope of Chapter V and VA of Finance Act, 1994 in terms of which Service tax is levied.

3. W.P.No. 6281 of 2016 challenges Order-in-Original dated 14.10.2015 passed by the Principal Commissioner of Service Tax – I, Chennai – 600 040 / third respondent, and W.P.No. 6282 of 2016 is for a mandamus directing the respondent no.1 to issue suitable instructions to the subordinate officers not to propose demand /or levy service tax on the petitioner for statutory services rendered under the provisions of the Tamil Nadu District Police Act, 1859, the Chennai Police Act, 1888 (formerly the Madras City Police Act, 1888) and the relevant Government



Orders issued by the State of Tamil Nadu.

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4. The prayer, in common, is for an exemption from the levy of tax under the provisions of the Finance Act, 1994 (Service Tax/Service Tax Act) in respect of the services rendered by the petitioner, the Greater Chennai Police Commissionerate in the exercise of its sovereign functions under the aforesaid enactments.

5. We have heard detailed submissions advanced by Mr.Anishkumar, for the petitioner and Mr.Mohana Murali, for the respondents.

6. Mr.Mohana Murali has filed memo dated 09.12.2025 seeking an amendment to the array of respondents in light of the introduction of the Goods and Services Tax Act, 2017 with effect from 01.07.2017. The memo states that post introduction of the Goods and Service Tax Act, 2017, R3 – R5 as originally arrayed have merged. Memo dated 09.12.2025 is ordered and the Registry is directed to make corresponding changes to the array of respondents.

7. The submissions of the petitioner are to the effect that the Order-in-Original dated 14.10.2015 is bad in law as there is no liability that could be fastened on the police authorities qua the provision of security/bundobast services to various entities, both State as well as private.



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8. Learned counsel for petitioner would submit that the duties of the police authorities rendered in terms of the relevant enactments constitute sovereign functions. Under various Government Orders, the State has permitted the authorities to collect certain amounts from the service recipients.

9. These receipts are nothing but a reimbursement of the costs to be defrayed by the petitioner in respect of those police officials deputed to render the security services. Hence, and being a measure of reimbursement, there is no profit that is earned by the petitioner and the receipts would hence not fall within the ambit of the Service Tax Act. He relies in specific on G.O. No. 949 dated 06.11.2009.

10. Learned counsel for petitioner would also argue that there could be no liability fastened under the Service Tax Act as far as governmental agencies are concerned. In fact, the Commissionerate had approached the Secretary to Government, Ministry of Home Affairs, New Delhi, as early as on 11.10.2012 seeking an exemption from the levy of service tax. That petition is still pending.

11. He relies on the judgment of the Supreme Court in *Commissioner v Dy. Commissioner of Police, Jodhpur*¹ confirming an order of the Customs, Excise and Service Tax Appellate Tribunal

1 2018 (11) GSTL J113 (SC)

5/15



महायान ज्यान

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(CESTAT) in the case of *Dy. Commissioner of Police, Jodhpur v Commissioner of C.Ex & ST, Jaipur*². In light of the aforesaid submissions, he would pray that the order impugned in W.P.No.6281 of 2016 be quashed and all writ petitions be allowed.

12. Mr.Mohana Murali, learned Senior Panel Counsel, would on the contrary, defend the order of the Commissioner of the Income Tax, submitting that the functions rendered by the petitioner, in respect of which the amounts have been received, are not in the nature of statutory duties. The duties are rendered in events catering to both private individuals as well as statutory and governmental agencies and hence would not come within the ambit of the enactments relied upon by the petitioner.

13. He draws attention to the amounts that are payable under the Government Orders by the service recipients and submits that those amounts are not in the nature of pure reimbursements, but contain an element of profit as well. In fine, he would pray that the impugned order be sustained and the prayer for a direction to the authorities be dismissed, as being devoid of merit.

14. We have heard both learned counsel and have considered the material papers as well as the cases relied upon.



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15. The petitioner is the Greater Chennai Police Commissionerate.

The services rendered by the officers are in the nature of bundobast

services, admittedly falling under the sweep of their official duties.

Factually therefore, there is no difference in the nature of services

rendered by the officers of the Commissionerate to the service recipients,

when compared with those rendered in exercise of general public duty.

Hence the subject services also stand encompassed within, and are in the

nature of sovereign functions.

16. We hence do not agree with Revenue that merely because the service recipients are governmental and private entities, there is any difference in the nature of services rendered by the petitioner to those entities. The services, in our view, continue to be in the nature of a public service, and part of sovereign functions.

17. The Principal Bench of the CESTAT, New Delhi, had had occasion to consider a similar issue as arising before us in the case of *Dy. Commissioner of Police, Jodhpur*³. Ultimately, the CESTAT took the view that the police department has a statutory and mandatory duty to maintain public peace and order and hence for the exercise of such sovereign functions, no charges would be recoverable from the citizens. They took note of the position that these charges go into the coffers of the

³Foot note supra 1



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State and hence concluded that the police department, an agency of the

State cannot be considered to be a '*person engaged in the business of running security services*'.

18. The contention of the Department that the police department would come within the definition of security agency 'services' under Section 64(94) of the Act was hence negatived, and referring to some circulars issued by the CBIC, the appeal came to be allowed.

19. As against that order, the Commissioner of Customs and Central Excise approached the Supreme Court, that dismissed the appeal in *Dy. Commissioner of Police, Jodhpur v. Commissioner*⁴ in the following terms:-

"1. Heard Shri Ranjit Kumar, Learned Solicitor General appearing for the appellant and perused the relevant material.

2. Delay condoned.

3. In the facts of the case, we are not inclined to interfere with the impugned order(s). The civil appeal(s) are accordingly dismissed."

20. In the present case too, liability is fastened under the provisions of Section (105) (w) of Finance Act 1994, defining a 'security agency' as follows:-

'security agency' means any person engaged in the business of rendering services relating to the security of any property, whether movable or immovable, or of any

⁴ 2017 (48) STR 275



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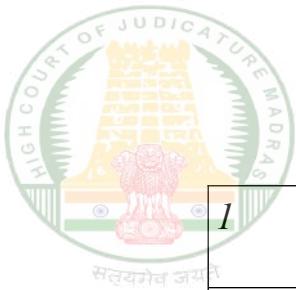
person, in any manner and includes the services of investigation, detection or verification, of any fact or activity, whether of a personal nature or otherwise, including the services of providing security personnel’;

(w) (to any person), by a security agency in relation to the security of any property or person, by providing security personnel or otherwise and includes the provision of services of investigation, detection or verification of any fact or activity;

21. The services rendered admittedly fall with the ambit of the above definition. The State has been issuing Government Orders over the years (i) GO No.3022 dated 10.12.1979, (ii) GO No.215 dated 31.01.1986, (iii) GO No.299 dated 11.02.1987, (iv) GO No.919 dated 11.08.2008, (v) GO No. 949 dated 06.11.2009 and GO No. 249 dated 21.03.2017). The G.O.s., provide for the collection of charges from service recipients and the tariff set out under GO No.949 dated 06.11.2009 reads as follows:-

(i) Rate of Guard Charges

Sl.No.	Rank of the Police Personnel	Average amount of rate fixed for collection of charges per month per each personnel. (including Travelling Allowance 14% on Pay, Pension Contribution 10% on Pay, Other Concession at 25% on Pay (Including LTC, clothing, supervision charges and leave salary contribution)] (in Rs.)



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1	<i>Superintendent of Police/Commandant</i>		1,23,924/-
2	<i>Additional Superintendent of Police/ Deputy Commandant</i>		1,20,812/-
3	<i>Deputy Superintendent of Police (Cat-I,II and III)</i>		1,16,700/-
4	<i>Inspector of Police (Cat – I,II and III)</i>		97, 463/-
5	<i>Sub Inspector of Police (Cat – I, II and III)</i>		96,436/-
6	<i>Head Constable (Cat – I, II and III)</i>		56,539/-
7	<i>Grade I Police Constable (Cat – I, II and III)</i>		55,168/-
8	<i>Grade II Police Constable (Cat – I,II and III)</i>		53,254/-
9	<i>Followers</i>	<i>Barber and Cook</i>	31,508/-
		<i>Dhobi and Sweeper</i>	31,165/-

* 10% Additional Amount on total pay per month may be added on 1st January, every year towards increase in dearness allowance component and other allowances / any other eligible allowance will be charged extra.

(ii) Standard Charges for Escort Duty

Sl.No.	Details of Police Escort Deployed	Below 12 hrs	Above 12 hrs	One day	One day and less than 12 hrs
1	<i>Inspector of Police (10% supervising charges and 10% of amenities fund has to be added with the rates fixed to be</i>	1624	2437	3249	4873



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	<i>remitted into Government Account)</i>				
2	<i>Sub-Inspector of Police</i>	1607	2411	3215	4822
3	<i>Head Constable</i>	942	1414	1885	2827
4	<i>Grade-I Police Constable</i>	919	1379	1839	2758

(Full day = Guard Charges Per Month / 30.

Below 12 Hrs = 50% of full day charge and

Above 12 Hrs = 75% of full day charge).

22. We are told that the rates fixed as per the above tariff constitute a reimbursement of the amounts payable to the police personnel for their regular services. However, no computation is available in support of the same. The above tariff indicates that the quantum of payment for the deputation of the officer is specific, and includes various components of pay.

23. We are unaware as to whether the amounts contain some amount of profit over and above the charges payable to the officers for regular duties. Being a question of fact, and moreover, as it does not impact the decision in this case, we are not inclined to render a finding in this regard.

24. However, we find that the definition of 'person' upon whom liability of service tax was to be fastened, as it stood for the period in question, being May, 2006 to December, 2011, did not include the



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Government. Hence, one would adopt the definition of ‘person’ under the

General Clauses Act, which as per Section 6(42), reads thus:-

“person” shall include any company or association or body of individuals, whether incorporated or not;

25. It is only under the Finance Act, 1994 on and with effect from 01.06.2012 that a definition of ‘person’ was inserted in Service tax law, reading as follows:-

“person’ includes,-

- (i) an individual,*
- (ii) a Hindu undivided family,*
- (iii) a company,*
- (iv) a society,*
- (v) a limited liability partnership,*
- (vi) a firm,*
- (vii) an association of persons or body of individuals, whether incorporated or not,*
- (viii) Government,*
- (ix) a local authority, or*
- (x) every artificial juridical person, not falling within any of the preceding sub-clauses;”*

26. Hence, at the relevant point in time and for the period in question therefore, the Government was not an entity liable to tax. On this short ground, the petitioner succeeds.

27. As far as the period post 01.06.2012 is concerned, we leave the question of taxability open. We have decided the present writ petitions only on the question of assumption of jurisdiction and have not decided any of the other points that have been agitated by the petitioners.



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Hence the liability of the petitioner for service tax for the period

subsequent to 01.07.2012 is not a subject matter of decision in these writ

petitions.

28. In light of aforesaid discussion, all writ petitions are allowed and order dated 14.10.2015 is quashed. No costs. Connected miscellaneous petitions are closed.

[A.S.M, J.] [M.S.K, J.]
12.12.2025

Index:Yes/No

Neutral Citation:Yes/No

ssm

To

1. The Secretary,
Ministry of Finance (Department of Revenue),
Room No.46, North Block,
New Delhi – 110 001.

2. The Secretary,
Government of India
Ministry of Home Affairs,
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