

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2015

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P. NOS. 10489 and 10490 of 2015
and
M.P. Nos. 1, 1, 2 and 2 of 2015

A.V.R.N. Hotels Private Limited- Chennai
(known as Vijay Park)
Rep. By Managing Director
Mr. A. Vijayaraghavan
No.12, Jawaharlal Nehru Salai
Chennai - 600 106.

... Petitioner in both WPs

-vs-

The Assistant Commissioner (CT)
The Commercial Tax Department
Vadapalani Assessment Circle
1, Greams Road,
Chennai - 600 006.

... Respondent in both Wps

PRAYER in both Writ Petitions: These Writ Petitions are filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned Notice Nos. TIN 33681462429/ 2011-2012 & 2012-13 dated 24.11.2014 and also the Assessment Orders issued in order No.TIN 33681462429/ 2011-2012 & 2012-2013 dated 26.03.2015 issued by the respondent confirming the said Notice, quash the same and direct the respondent to consider the Monthly Returns, exempted purchases and liquor sales and other documents submitted by the petitioner to assess the actual Turnover afresh for the year 2011-12 & 2012-2013 as per the provisions of TNVAT Act and pass further orders.

For petitioner : Mr. K.V. Subramanian
in both WPs Sr. Counsel for
M/s. K.V. Subramanian Associates

For respondent : Mr. Manoharan Sundaram, AGP (T)
in both WPs

ORDER

By consent of both parties, these writ petitions are disposed of, at the stage of admission itself.

2. There are two writ petitions filed by M/s. A.V.R.N. Hotels Private Limited, challenging the impugned orders on the ground of non-submission of the objections and not attending to the alleged opportunity of personal hearing, which is not wilful and deliberate. Learned counsel appearing for the petitioner submitted that since the Manager Mr. Hari Krishnan, who was appointed by the petitioner company for this purpose, deliberately and intentionally did not bring the notice dated 24.11.2014 received from the respondents, to the knowledge of the petitioner Management, with an ulterior motive to damage the image and reputation of the petitioner company and make the petitioner company to incur huge loss and that apart, the Manager has also mis-appropriated a sum of Rs.1.50 lacs from the petitioner's company and credited to his account, which was found later on, the petitioner company losing confidence on the dis-honest employee, sent him out as per law. It shows that the petitioner was unable to represent for the sole reason, the Manager Mr. Hari Krishnan who has received the notice dated 24.11.2014, has suppressed the receipt of notice. Therefore, if one more opportunity is given to the petitioner's company, to represent before the Assistant Commissioner (CT), that would meet the ends of justice.

3. Mr. Manoharan Sundaram, learned Additional Government Pleader (Taxes) appearing for the respondent, taking notice for the respondent, would submit that the impugned order may be treated as a notice and thereupon the petitioner company may be directed to submit a detailed explanation within 15 days from the date of receipt of a copy of this order.

4. Agreeing to the said proposition, this Court grants 15 days time to the petitioner Management to file a detailed explanation, treating the impugned order as Show Cause Notice and on receipt of the explanation the respondent is directed to consider the matter on merits and pass appropriate orders, in accordance with law.

5. With this direction, both the writ petitions are disposed of. Consequently, the connected M.Ps are closed. No order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

avr

To

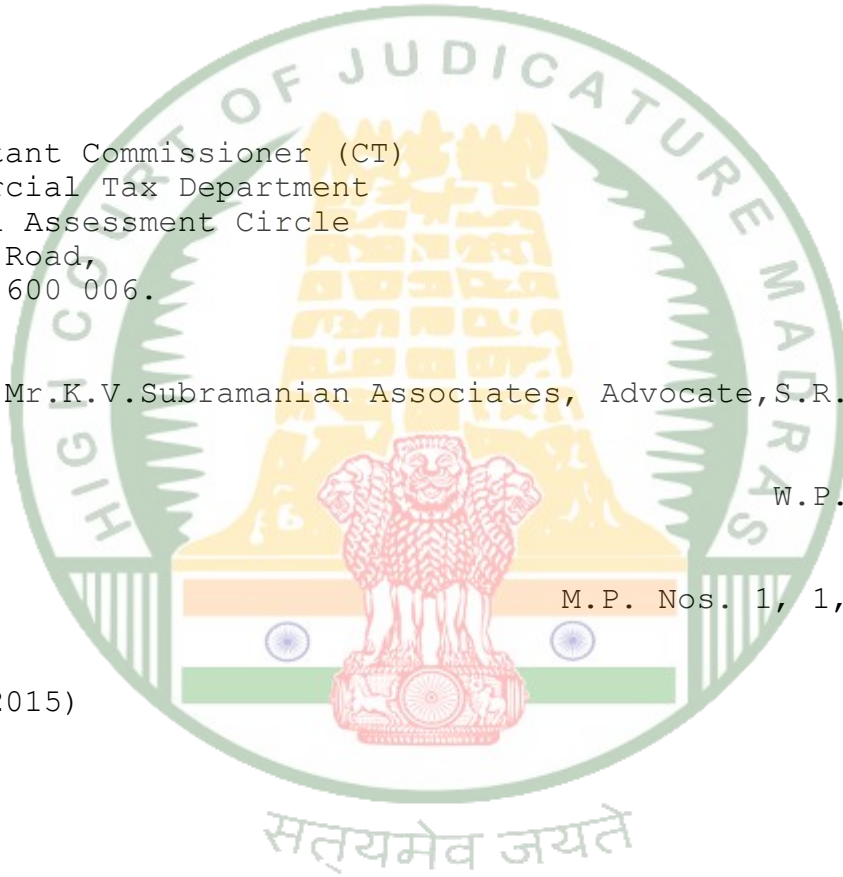
The Assistant Commissioner (CT)
The Commercial Tax Department
Vadapalani Assessment Circle
1, Greams Road,
Chennai - 600 006.

+2cc's to Mr.K.V.Subramanian Associates, Advocate, S.R.No.20287 & 20288

W.P. NOs. 10489 and
10490 of 2015
and

M.P. Nos. 1, 1, 2 and 2 of 2015

SU(CO)
CA(28/04/2015)



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