IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

Writ Petition Nos.11512 to 11514 of 2015
M.P.Nos.1, 1 and 1 of 2015

M/s.Annamalai Hotels (P) Ltd.,
rep., by its Director,
V.Siva Kumar ... Petitioner in all W.Ps.,

Vs.

The Assistant Commissioner (CT),
Trichy Road Circle,
Coimbatore. ... Respondent in all W.Ps.,

Prayers : Writ Petitions filed under Article 226 of the Constitution of India praying for Writs of Certiorari, to call for the records, on the file of the respondent in TIN.33421883358/2011-12 (in respect of W.P.No.11512 of 2015), TIN.33421883358/2012-13 (in respect of W.P.No.11513 of 2015) and TIN.33421883358/2013-14 (in respect of W.P.No.11514 of 2015) dated 18.03.2015 and quash the same.

For Petitioner : Mr.A.Thiyagarajan

For Respondent : Mr.Manoharan Sundaram,
Additional Government Pleader (T)

O R D E R

These Writ Petitions have been filed by M/s.Annamalai Hotels (P) Ltd., represented by its Director, Mr.V.Siva Kumar, challenging the impugned proceedings of the Assistant Commissioner (CT), Trichy Road Circle, Coimbatore, respondent herein, dated 18.03.2015, on the main ground that the respondent has deliberately refused to give personal hearing to the petitioner, to explain his case and unilaterally passed the impugned order.

2. Drawing the attention of this Court to the last portion of the reply, dated 08.04.2014, to the Notices of the respondent, dated 02.04.2014, learned counsel appearing for the petitioner submitted that the petitioner has made a request to drop the proceedings or to provide personal hearing to explain his case.

3. When the petitioner has filed the above reply to the notice, dated 02.04.2014, stating various explanations and grounds and also requesting the assessing officer, to drop the proceedings,

this Court is not able to see, as to why, the respondent has not complied with the said request, to which, he is obliged to do, as per Section 22(4) of the TNVAT Act. As per Section 22(4) of the TNVAT Act, the respondent is duty bound to give a personal hearing. In the present case, the mandatory condition mentioned in the abovesaid provision, has been given a go by.

4. Mr.Manoharan Sundaram, learned counsel for the respondent also fairly submitted that when there is an enabling provision, under Section 27(4) of the TNVAT Act, for providing a personal hearing, in all fairness, the respondent should have acceded to the request of the petitioner and provided him with an opportunity of personal hearing.

5. A joint reading of the reply, dated 08.04.2015 and the impugned order, dated 18.03.2015, makes it clear that the petitioner was refused for the personal hearing. Therefore, this Court is of the view that the assessing officer has not discharged his duties properly, as per the conditions mentioned above and hence, the impugned orders are set aside and the matter is accordingly remitted back to the assessing officer for fresh consideration, in accordance with law. It is needless to state that the respondent shall provide an opportunity of personal hearing, by issuing a notice in advance, before passing a final order.

6. In the result, the Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

skm

To

The Assistant Commissioner (CT),
Trichy Road Circle, Coimbatore

1 cc to Spl.Government Pleader (Taxes), Sr. 28127
3 cc to Mr.A.Thiyagarajan, Advocate, Sr. 27794

Writ Petition Nos.11512 to 11514 of 2015

MG (CO)
kk 30/6