

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.9181 of 2015

and

M.P.No.1 of 2015

M/s.Malabar Hotels Pvt. Ltd.,
represented by its Director,
1/238, Old Mahabalipuram Road,
Semmencherry,
Cennai - 600 019. Petitioner

vs.

1.The Assistant Commissioner (CT)
Kelambakkam Assessment Circle,
Chennai - 600 096.

2.The Joint Commissioner of
Commercial Taxes,
Chennai East Division,
Greams Road,
Chennai.

3.The Appellate Deputy Commissioner,
Chennai East Division,
Greams Road, Chennai.

... Respondents

Writ Petition filed under section 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent herein in the impugned proceeding RC 107/2014/A3 dated 14.02.2015, issued under section 42(3) of the Tamil Nadu Value Added Tax Act, 2006 in TIN No.33200962852, quash the same as it is issued arbitrarily without considering the statutory time limit for filing Revision Petition and Appeal before the Joint Commissioner of Commercial Taxes and the Appellate Deputy Commissioner (CT) in respect of VAT liability and liability under Tamil Nadu Tax on Luxuries Tax Act and going beyond the legislative competence insofar as the petition is concerned, direct the first respondent to lift the attachment of the bank account No.022102000014650 with IDBI Bank, Sholinganallur Branch.

For Petitioner : Mr.Radhika Chandrasekar

For Respondent : Mr.A.N.R.Jayapratap
Additional Government Pleader (Taxes)

O R D E R

Heard Mr.Radhika Chandrasekar, learned counsel for petitioner and Mr.A.N.R.Jayapratap, learned Additional Government Pleader (Taxes). With the consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

2. Petitioner has filed this writ petition seeking to quash the proceedings of the first respondent dated 14.02.2015 and to direct the first respondent to lift the attachment of the bank account No.022102000014650 with IDBI Bank, Sholinganallur Branch.

3. Admittedly, the petitioner has preferred a revision and appeal before the Joint Commissioner of Commercial Taxes and the Appellate Deputy Commissioner (CT) respectively and the same are pending. According to the petitioner, the matter was heard and orders have been reserved on 16.03.2015 in the revision petition and the appeal is being heard today. During the pendency of these proceedings, the petitioner has issued with a notice dated 14.02.2015 attaching the bank account.

4. The petitioner has not given any reason for approaching this Court earlier immediately after receipt of the impugned notice dated 14.02.2015 and that the impugned notice is very clear that the dealers are still in arrears of Rs.8,19,22,664/- including penalty after adjusting the payments of Rs.83,90,875/- and Rs.92,04,698/- received from the petitioner's account. Since the matter is pending before the revisional authority and the appellate authority, this Court is not inclined to render any finding on the merits of the matter. However, taking into consideration that the petitioner has agreed to deposit 10% of the tax amount, without adjusting the amount already paid/attached by the respondents, this Court directs the respondent to lift the attachment on receipt of 10% of the tax amount for the eight months mentioned in the impugned order without giving credit to the amount already adjusted viz., Rs.83,90,875/- and Rs.92,04,698/-. On payment of those amount, the order of attachment shall be lifted. The revisional authority or appellate authority are expected to dispose of the revision and the appeal as expeditiously as possible, preferably, within one month from the date of receipt of a copy of this order.

This Writ Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm

To

1.The Assistant Commissioner (CT)
Kelambakkam Assessment Circle,
Chennai - 600 096.

2.The Joint Commissioner of
Commercial Taxes,
Chennai East Division,
Greens Road,
Chennai.

3.The Appellate Deputy Commissioner,
Chennai East Division,
Greens Road, Chennai.

1 cc to Spl.Government Pleader (Taxes), Sr.No17849

1 cc to Mr. K.Vathieswaran, Advocate, SR.No.17797

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pmk.16.4.2015

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