

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.11034 of 2016 and

W.M.P.No.9602 of 2016

M/s.Hotel Indrapuri
rep by its Managing Partner,
K.V.K.Complex,
No.91, Bazar Street,
Pollachi - 642 001. Petitioner

Vs.

- 1.The State of Tamil Nadu
rep by its Secretary
CT & RE Department,
Fort St.George, Chennai.
- 2.The Commercial Tax Officer,
Pollachi (West) Circle,
Pollachi. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the 2nd respondent in proceedings in TIN:336222241566/2014-15 and 2015-16 and to quash the proceedings dated 22.01.2016 issued therein and further direct the 1st respondent to consider the waiver petition dated 01.02.2016 filed by the petitioner and grant waiver to the petitioner herein for the assessment year 2014-15.

For Petitioner : Mr.AR.L.Sundaresan, Senior Counsel
for Mrs.Hema Murali Krishnan

For Respondents: Mr.Manoharan Sundaram,
Additional Government Pleader (Tax)

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus to call for the records of the 2nd respondent in proceedings in TIN:336222241566/2014-15 and 2015-16

and to quash the proceedings dated 22.01.2016 issued therein and further direct the 1st respondent to consider the waiver petition dated 01.02.2016 filed by the petitioner and grant waiver to the petitioner herein for the assessment year 2014-15.

2.Mr.AR.L.Sundaresan, learned Senior Counsel appearing for the petitioner submitted that the petitioner has given a representation dated 01.02.2016 to the 1st respondent for waiver for the assessment year 2014-15. Further, the learned Senior Counsel submitted that as against the judgment passed by the Division Bench of this Court, the Dealers have filed appeal before the Hon'ble Supreme Court and the same is pending. However, the Apex Court has not granted any interim order in the matter. That apart, the learned Senior Counsel also submitted that for the assessment year 2015-16, the petitioner may be permitted to pay the tax amount in installments.

3.Mr.Manoharan Sundaram, learned Additional Government Pleader (Tax) taking notice for the respondents submitted that the waiver of the tax can be decided only by the Government and not by the 2nd respondent. Further, the learned Additional Government Pleader submitted that when the tax is due and payable by the petitioner, they are liable to pay the tax in one stroke and the petitioner cannot be allowed to pay the tax in installments. However, the learned Additional Government Pleader submitted that the 1st respondent may be directed to consider the petitioner's representation within a stipulated time.

4.Mr.AR.L.Sundaresan, learned Senior Counsel also submitted that it would suffice to direct the 1st respondent to consider the petitioner's representation dated 01.02.2016.

5.Having regard to the submissions made by the learned counsel on either side, taking into consideration the limited prayer sought for by the learned Senior Counsel, without expressing any opinion with regard to the merits of the case, I direct the 1st respondent to consider the petitioner's representation dated 01.02.2016 and pass orders, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

"Till the disposal of the petitioner's representation, the respondents are directed to maintain status quo."

6.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)
Dated: 1.4.2016

*Corrected as per order
of this Court dated 20.4.2016
made in W.P.No.11034 & WMP.No.9602 of 2016

Sd/
Assistant Registrar
Dated: 2.5.2016

//True Copy//

Sub Assistant Registrar

To

1.The Secretary, State of Tamil Nadu
CT & RE Department,
Fort St.George, Chennai.

2.The Commercial Tax Officer,
Pollachi (West) Circle,
Pollachi.

+1cc to Mr.A.Thiyagarajan, Advocate, S.R.No.18748

To be
substituted
to the order
already
despatched
on 12.4.2016

1 cc to Mrs. Hema Muralikrishnan, Advocate, Sr. 24343
1 cc to the Spl.Government Pleader (T), Sr. 24456

W.P.No.11034 of 2016
and W.M.P.No.9602 of 2016

vd(CO)
srg(01/04/2016)

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