IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.07.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.13223 of 2016
and
W.M.P.Nos.11591 & 11592 of 2016

Tvl. Hotel Devi Towers,
rep. By its Managing Partner,
T.R.Gopalakrishnan,
No.102/3-B, Alagapuram Main Road,
Saradha College Road, Salem - 4. ...Petitioner

Vs.

1. The Commercial Tax Officer,
(Enforcement)
Group II,
C.T. Building, Salem.

2. The Joint Commissioner (CT)
(Enforcement)
C.T. Building, Salem.

3. The Assistant Commissioner (CT)
Arisipalayam Assessment Circle,
C.T. Building, Salem. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records on the files of the first respondent, in his proceedings in Form VSI-I, surprise inspection - report, dated 11.09.2015, and to quash the same, as being without jurisdiction and authority of law, and further, to direct the third respondent not to implement the inspection results for the purpose of assessment/re-assessment.

For Petitioner : Mr.R.Senniappan

For Respondents : Mr.S.Manoharan
Additional Government Pleader

O R D E R

The petitioner has filed this Writ Petition, praying to quash the inspection report, submitted by the first respondent, pursuant to the inspection conducted at the business premises of the petitioner.

2. Heard Mr.R.Senniappan, learned counsel appearing for the petitioner and Mr.S.Manoharan, learned Additional Government Pleader, for respondents.

3. The first ground, on which, the learned counsel appearing for the petitioner oppugn the inspection report, is by contending that the second respondent has no jurisdiction to authorize such inspection. To ascertain the correctness of such contention, the learned Additional Government Pleader for respondents, was directed to get instructions when the matter was taken up for hearing on the last occasion, i.e., on 27.06.2016, and adjourned the matter to 01.07.2016 (today).

4. Accordingly, the learned Additional Government Pleader has produced the written instructions given by the second respondent to him, (via., e-mail), from which, it is seen that the surprise inspection was conducted, as per the directions of the Principal Secretary/Commissioner of Commercial Taxes, Chennai, in Circular No.28 of 2015, dated 04.08.2015, and the Joint Commissioner's (CT (Enforcement) Salem Authorisation No.88 of 2015, dated 03.09.2015.

5. Therefore, the above said ground raised by the petitioner has to be necessarily rejected. The apprehension of the petitioner is that, the inspection report, is virtually an assessment order, and the Assessing Officer would blindly follow the same, while passing the assessment order. The petitioner's contention/anticipation cannot be accepted, at this juncture, since pre revision notice has not been issued to the petitioner till date, nor can the petitioner have askance angle in the approach of the Assessing Officer. Thus, in the event of pre revision notice, being issued, it is always open to the petitioner to raise all contentions in support of case/claim, in their reply/objection.

6. With the above observation, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Commercial Tax Officer,
(Enforcement)
Group II,
C.T. Building, Salem.

2. The Joint Commissioner (CT)
(Enforcement)
C.T. Building, Salem.

3. The Assistant Commissioner (CT)
Arisipalayam Assessment Circle,
C.T. Building, Salem.

+1 cc to Mr.R.Senniappan Advocate sr.37306
+1 cc to Special Government Pleader sr.37692

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