IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2016

CORAM

THE Hon'ble Mr.JUSTICE M. DURAISWAMY

W.P.Nos.21017, 21018 and 21019 of 2010
and
M.P.Nos.1 of 2010 ( 3 in Nos.)

Tvl.Hotel Juha Regency,
rep by its Prop.C.A.B. Sheikh Mukthar,
Omalur Main Road,
Salem - 4 .... Petitioner in all the writ petitions

vs

The Assistant Commissioner (CT) FAC,
Arisipalayam Circle,
Commercial Taxes Building,
Salem ..... Respondent in all the writ petitions

Writ Petitions filed under Article 226 of the Constitution of India praying this Court to issue Writs of Certiorari to call for the records of the respondent in his proceedings in TNLH Nos.12075/2003-04 (in respect of WP No.21017/2010); 12075/2004-05 (in respect of WP No.21018/2010) ; and 12075/2005-06 (in respect of WP No.21019/2010)dated 31.8.2010 and quash the same.

For petitioner : Mr.S. Ramanathan

For respondent : Mr.S. Kanmani Annamalai
AGP (T)

COMMON ORDER

The petitioner has filed the above writ petitions to issue Writs of Certiorari to call for the records of the respondent in his proceedings in TNLH Nos.12075/2003-04 (in respect of WP No.21017/2010); 12075/2004-05 (in respect of WP No.21018/2010) ; and 12075/2005-06 (in respect of WP No.21019/2010) dated 31.08.2010 and quash the same.

2. It is the case of the petitioner that he is running a lodging house and providing accommodation to the customers, on rental basis. The petitioner is a registered dealer under the Tamil Nadu Tax on Luxuries Act 1981 and is an assessee on the file of the respondent. It is also the case of the petitioner that he is also paying the Luxury Tax as per the provisions of the TNTL Act 1981.

4. Treating the difference turnover, as suppressed turnover receipt of room rent, the respondent issued Notices dated 30.6.2010, proposing a turnover of Rs.14,65,594/-, as suppressed turnover, besides proposing penalty at 1 ½ times tax due for the Assessment Year 2003-2004; Rs.21,77,207/-, as suppressed turnover besides proposing penalty at 1 ½ times tax due for the Assessment year 2004-2005 and Rs.34,74,686/- for the Assessment Year 2005-2006.

5. On 30.8.2010, the petitioner filed his obections, raising various defences. However, the respondent, while passing the impugned orders on 31.08.2010, simply rejected the objections, filed by the petitioner, without assigning any reason.

6. When the respondent had rejected the objections, raised by the petitioner, they should have given the reason for rejecting the objections. Without any reason, whatsoever, the respondent had rejected the objections of the petitioner.

7. Since the objections of the petitioner were not considered by the respondent in a proper manner, the impugned orders are liable to be set aside and accordingly they are set aside. The matters are remanded back to the respondent for fresh consideration. The respondent is directed to consider the objections, filed by the petitioner and also the additional objections, to be filed by the petitioner and pass orders, on merits and in accordance with law, after giving due opportunity of personal hearing to the petitioner. With these observations, all the writ petitions are disposed of. No costs. Consequently, connected Mps are closed.

Sd/-
Asst.Registrar (CS III )

/true copy/

Sub Asst. Registrar

sr

To

The Assistant Commissioner (CT) FAC,
Arisipalayam Circle,
Commercial Taxes Building,
Salem

1 cc to Mr.S. Ramanathan, Advocate, Sr. 13521

W.P.Nos.21017, 21018 & 21019 of 2010

RV (CO)
kk 8/3