IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2016

CORAM:

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.39943 to 39945 of 2015
&
M.P.Nos.1 to 1 of 2015

Hotel Sri Vinayaga,
Represented by its Proprietrix, Tmt. P.Jothi,
No.55-A Salem Main Road,
Vinayagapuram Post, Attur Taluk,
Salem District ... Petitioner in all W.Ps.

Versus

The Commercial Tax Officer,
Attur (Rural) Assessment Circle,
Attur ... Respondent in all W.Ps.

Prayer:- Petitions filed under Article 226 of the Constitution of India, seeking for the issuance of Writs of Certiorari to call for the records on the file of the respondent in TIN No.33883262154/2012-13; 2013-14 and 2014-15 respectively dated 03.08.2015, and quash the same as being contrary to the principles of natural justice and that of the principles laid down by this Court in the judgment reported in (2007) 295 ITR 303 (Mad) (V.Selladurai v. Chief Commissioner of Income-Tax (OSD) and another) and 1995 (8) M.T.C.R. 55 (M/s. Rajam Offset Printers, Madras - 1 v. The Commercial Tax Officer, Mannady East Assessment Circle, Madras - 1).

For Petitioner in all W.Ps. : Mr. R.Senniappan

For Respondent in all W.Ps. : Mr. S.Kanmani Annamalai, Additional Government Pleader

COMMON ORDER

Heard Mr.R.Senniappan, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, appearing for the respondents, in all the writ petitions. By consent of the learned counsel for both sides, the writ petitions are taken up for final disposal.

2. The petitioner, who is a registered dealer on the file of the respondent, has challenged the orders of assessment,

dated 03.08.2015, which are in fact revisions of assessment under Section 22 (4) of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter will be referred to as "the Act"). The impugned orders have been challenged only on the ground that they are in violation of principles of natural justice, as an opportunity of personal hearing was not granted. In support of the said contention, the learned counsel for the petitioner placed reliance on the decisions reported in 1995 (8) M.T.C.R 55 (M/s. Rajam Offset Printers, Madras - 1 v. The CTO, Mannady (East) Assessment Circle, Madras - 1), (2006) 146 STC 642 (Madras Granites (P) Ltd. v. CTO, Arisipalayam Circle, Salem and another) and (2007) 295 ITR 303 (Mad.) (V.Selladurai v. Chief Commissioner of Income-Tax (OSD) and another).

3. Though the respondent has been served, no counter affidavit has been filed.

4. On a perusal of the impugned orders, it is clear that they are passed under Section 22 (4) of the Act. If that be the case, then the opportunity of personal hearing should have been granted and it is mandatory too. Failure to do so renders the impugned proceedings as bad in law.

5. In the light of the same, the impugned orders call for interference. Accordingly,the petitioner is directed to treat the impugned proceedings as show cause notices, and submit their objection(s) to the same, raising all the factual and legal contentions, within a period of two weeks from the date of receipt of a copy of this order. On such objection(s) being filed, the respondent shall afford an opportunity of personal hearing to the petitioner and re-do the assessments in accordance with law. The writ petition is disposed of accordingly. No costs. Consequently, the connected MPs are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

srk
To

The Commercial Tax Officer,
Attur (Rural) Assessment Circle,
Attur.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.62039

W.P.Nos.39943 to 39945 of 2015
& M.P.Nos.1 to 1 of 2015

GR(CO)
CA(30/11/2016)