IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2016

CORAM

THE Hon'ble Mr.JUSTICE M. DURAISWAMY

W.P.Nos.25973, 25974 and 25975 of 2010
M.P.Nos.1 of 2010 (3 in Nos.)

M/s V.G.P Golden Beach Resort Ltd,
rep by its Director VGS Rajesh,
E.C.R. Road, Enjambakkam,
Chennai – 41 .... Petitioner in all the writ petitions

vs

The Assistant Commissioner (CT)
Thiruvanmiyur Assessment Circle,
92, A.V. Church Road,
Besant Nagar, Chennai-90 ..... 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.0226/2004-05 (in respect of WP No.25973/2010); 0226/2005-06 (in respect of WP No.25974/2010) ; and 0226/2006-07 (in respect of WP No.25975/2010) dated 20.8.2010 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.0226/2004-05 (in respect of WP No.25973/2010);0226/2005-06 (in respect of WP No.25974/2010) ; and 0226/2006-07 (in respect of WP No.25975/2010) dated 20.08.2010 and quash the same.

2. It is the case of the petitioner that he is running a Beach Resorts, having various tyes of rooms in the resorts and is 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.

3. Treating the difference turnover, as suppressed turnover receipt of room rent, the respondent issued Notices dated 18.6.2010, proposing a turnover of Rs.57,54,327/-, as suppressed turnover, besides proposing penalty at 150% of the tax due for the Assessment Year 2004-2005; Rs.63,59,165/-, as suppressed turnover besides proposing penalty at 150% of the tax due for the Assessment year 2005-2006; and Rs.67,13,729/- for the Assessment Year 2005-2006.

4. For the notices issued by the respondent, the petitioner failed to file any objection and therefore, the respondent accepted the proposal and passed the impugned orders.

5. The learned counsel for the petitioner submitted since the petitioner could not file his objection, he may be permitted to file his obejction within a reasonable time.

6. Mr.S. Kanmani Annalamalai, learned Additional Government Pleader, appearing for the respondent, submitted that the petitioner can be given an opportunity to file his objections before the respondent.

7. Having regard to the submissions made by the learned counsel on either side and taking into consideration of the fact that the petitioner has not filed his objections before the respondent, I give liberty to the petitioner to file his objections.

8. Accordingly, the impugned orders, passed by the respondent, dated 20.08.2010 are liable to be set aside and accordingly they are set aside and the matters are remanded back to the respondent for fresh consideration. The petitioner is directed to file his objections within a period of two weeks from the date of receipt of a copy of this order. On receipt of the objections, filed by the petitioner, the respondent is directed to decide the matter afresh, after giving an opportunity of personal hearing to the petitioner. With these observations, all the writ petitions are disposed of. No costs. Consequently, connected Mps are closed.

sr

-s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

The Assistant Commissioner (CT) FAC,
Thiruvanmiyur Assessment Circle,
92, A.V. Church Road,
Besant Nagar, Chennai-90

+ 1 cc to Mr.S.Ramanathan,Advocate, SR 13522

rv(co)
prk8/3

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