IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2016

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.38688 & 38689 of 2016
& WMP.Nos.33140 & 33141 of 2016
and
WMP.Nos.34142 and 34143/16

M/s.Hotel Palmgrove, rep.by
Shri K.Jayavarmaraj Ballal,
Managing Director ..Petitioner in 2 cases

Vs

The Assistant Commissioner (CT),
T.Nagar Assessment Circle,
Chennai-28. ..Respondent in 2 cases

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records on the files of the respondent respectively in TIN.33821560031/2013-14 and TIN. 33821560031/2014-15, dated 09.9.2016 received on 06.10.2016 and quash the same as being violative of principles of natural justice and contrary to the provisions of the Tamil Nadu Value Added Tax Act, 2006 and hence, invalid and illegal.

For Petitioner : Mr.V.Srikanth

For Respondent : Mr.S.Kanmani Annamalai, AGP

COMMON ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondent. Heard both.

2. The petitioner, which is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, has filed these writ petitions challenging the impugned orders for the years 2013-14 and 2014-15.

3. The learned counsel for the petitioner submits that there are several documents available with the petitioner to substantiate their case and that the Assessing Officer, without considering the same in a proper manner, completed the assessments.

4. On a reading of the impugned orders, this Court is of the prima facie view that the Assessing Officer discussed the objections raised by the dealer. If the reasoning is insufficient or if the Assessing Officer has not properly appreciated the scope of the objections made, then, it is a matter, which the petitioner has to canvass by approaching the Appellate Authority under the provisions of the Statute. This Court cannot examine the disputed questions of fact. On the other hand, if the petitioner is of the view that the Assessing Officer missed out on the documents or there are errors, which are apparent on the face of the record, then the Statute provides a remedy by filing a rectification petition under Section 84 of the State Act. Thus, for both the reasons, the writ petitions cannot be entertained and are to be dismissed as not maintainable.

5. Accordingly, the writ petitions are dismissed. No costs. Consequently, the above WMPs are also dismissed.

6. However, it is left open to the petitioner either to approach the Appellate Authority available under the Statute or if, in the opinion of the petitioner, there are errors apparent on the face of the records, it is open to the petitioner to file a petition under Section 84 of the State Act. It is needless to state that if such a petition is filed, the Assessing Officer shall consider and pass orders on the same within a reasonable time after affording an opportunity of personal hearing, preferably within a period of four weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT),
T.Nagar Assessment Circle, Chennai-28.

+1cc to Mr.C.Venkatraman, Advocate, S.R.No.63204
+1cc to the Government Pleader, S.R.No.63520

SM(CO)
EU(11/11/2016)

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