

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (T) No. 86 of 2013**

M/s. Golden Tulip Star (Also known as G.T. Star), a proprietorship firm having its business at V.I.P. Road Raipur, 492006, through its authorized signatory, Amardeep Singh Arora, S/o Shri J.S. Arora, aged about 34 years, Resident of Shankar Nagar, Raipur, P.S. & P.O. Shankar Nagar, District Raipur (CG)

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Finance Mahanadi Bhawan, Capital Complex Distt. Raipur, Chhattisgarh
2. State of Chhattisgarh through Secretary, Tourism, Mahanadi Bhawan, Capital Complex, Distt. Raipur, Chhattisgarh
3. Commissioner Commercial Tax, Vanijyik Kar Bhawan Civil Lines, Raipur (CG)
4. Managing Director, Chhattisgarh Tourism Board, Paryatan Bhawan, Indira Gandhi Road, Telibandha, Raipur, District Raipur (CG)

---- Respondents

Writ Petition (T) No. 12 of 2016

M/s Jindal Regency, (A unit of M/s. Jindal Universal India Pvt. Ltd.) a company incorporated under the provisions of the Companies Act, 1956 having its business Jagatpur, Dhimrapur Rad, Raigarh (CG) through its authorized signatory and Accountant, Shri Sachindra Nath Thatoi, S/o Shri Bhaskar Thatoi, aged about 42 years, resident of Mohapali, Kharsia, Raigarh (CG)

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Finance Mahanadi Bhawan, Capital Complex Distt. Raipur, Chhattisgarh
2. State of Chhattisgarh through Secretary, Tourism, Mahanadi Bhawan, Capital Complex, Distt. Raipur, Chhattisgarh

3. Commissioner Commercial Tax, Vanijyik Kar Bhawan Civil Lines, Raipur (CG)
4. Deputy Commissioner (Appellate), Commercial Tax, Commercial Tax Office, District Court Area, Bilaspur (CG)
5. Commercial Tax Officer, Raigarh Circle-1
6. Managing Director, Chhattisgarh Tourism Board, Paryatan Bhawan, Indira Gandhi Road, Telibandha, Raipur, District Raipur (CG)

---- Respondents

Writ Petition (T) No.109 of 2014

M/s. Hotel V.W. Canyon, (A unit of RMV Resort & Hotels Pvt.Ltd.) a company incorporated under the provisions of the Companies Act, 1956 having its business Near Agrasendham, Village Phundur, Raipur, through its Director, Shri Mahesh Wadhwani, S/o Dr. V.A. Wadhwani, aged about 39 years, resident of Raipur, District Raipur 492001 (CG)

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Finance Mahanadi Bhawan, Capital Complex Distt. Raipur, Chhattisgarh
2. State of Chhattisgarh through Secretary, Tourism, Mahanadi Bhawan, Capital Complex, Distt.Raipur, Chhattisgarh
3. Commissioner Commercial Tax, Vanijyik Kar Bhawan Civil Lines, Raipur (CG)
4. Managing Director, Chhattisgarh Tourism Board, Paryatan Bhawan, Indira Gandhi Road, Telibandha, Raipur, District Raipur (CG)

---- Respondents

Writ Petition (T) No. 110 of 2014

M/s. Hotel Vyankatesh Regency, a proprietorship firm having its business Phool Chowk, Raipur, through its proprietor, Shri Kedarnath Gupta, S/o Shri Durgaprasad Gupta, aged about 49 years, resident of Raigarh Bada, Civil Lines, P.S. & P.O. Civil Lines, Raipur

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Finance Mahanadi Bhawan, Capital Complex Distt. Raipur, Chhattisgarh
2. State of Chhattisgarh through Secretary, Tourism, Mahanadi Bhawan, Capital Complex, Distt. Raipur, Chhattisgarh
3. Commissioner Commercial Tax, Vanijyik Kar Bhawan Civil Lines, Raipur (CG)
4. Managing Director, Chhattisgarh Tourism Board, Paryatan Bhawan, Indira Gandhi Road, Telibandha, Raipur, District Raipur (CG)

---- Respondents

Writ Petition (T) No. 77 of 2015

M/s. Hotel Babylon Inn Private Limited, a company incorporated under the provisions of the Companies Act, 1956 having its business at Jail Road, Raipur, through its authorized signatory, Hari Singh Khanuja, S/o Late Shri Joginder Singh Khanuja, aged about 67 years, resident of Jail Road, Raipur, District Raipur (CG)

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Finance Mahanadi Bhawan, Capital Complex Distt. Raipur, Chhattisgarh
2. State of Chhattisgarh through Secretary, Tourism, Mahanadi Bhawan, Capital Complex, Distt. Raipur, Chhattisgarh
3. Commissioner Commercial Tax, Vanijyik Kar Bhawan Civil Lines, Raipur (CG)
4. Managing Director, Chhattisgarh Tourism Board, Paryatan Bhawan, Indira Gandhi Road, Telibandha, Raipur, District Raipur (CG)

---- Respondents

Writ Petition (T) No. 87 of 2013

M/s. Simran Heritage Private Limited, A company incorporated under the Companies Act, 1956 having its Business at Station Road, Raipur, through one of its Director, Shri Sarabjeet Singh Hora, S/o Shri Diler Singh Hora, Aged about 24 years, Resident of C-108, Sector-1, Devendra Nagar, Raipur, P.S. & P.O. Devendra Nagar, District Raipur (CG)

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Finance Mahanadi Bhawan, Capital Complex Distt. Raipur, Chhattisgarh
2. State of Chhattisgarh through Secretary, Tourism, Mahanadi Bhawan, Capital Complex, Distt. Raipur, Chhattisgarh
3. Commissioner Commercial Tax, Vanijyik Kar Bhawan Civil Lines, Raipur (CG)
4. Managing Director, Chhattisgarh Tourism Board, Paryatan Bhawan, Indira Gandhi Road, Telibandha, Raipur, District Raipur (CG)

---- Respondents

Writ Petition (T) No. 88 of 2013

M/s. Hotel Simran Pride (A unit of G.P. Hotels) a partnership firm having its business at Cloth Market, Main Road, Pandri, Raipur, through one of its Partner, Smt. Gurmit Kaur W/o Shri Pritpal Singh, aged about 40 years, Resident of B-10, Sector-5, Devendra Nagar, P.S. & P.O. Devendra Nagar, Raipur, District Raipur (CG)

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Finance Mahanadi Bhawan, Capital Complex Distt. Raipur, Chhattisgarh
2. State of Chhattisgarh through Secretary, Tourism, Mahanadi Bhawan, Capital Complex, Distt. Raipur, Chhattisgarh
3. Commissioner Commercial Tax, Vanijyik Kar Bhawan Civil Lines,

Raipur (CG)

4. Managing Director, Chhattisgarh Tourism Board, Paryatan Bhawan, Indira Gandhi Road, Telibandha, Raipur, District Raipur (CG)

---- Respondents

Writ Petition (T) No. 89 of 2013

M/s. Hotel Simran Regency (A unit of G.P. Hotels) a partnership firm having its business at Main Road, Pandri, Raipur, through one of its Partner, Smt. Gurmit Kaur W/o Shri Pritpal Singh, aged about 40 years, Resident of B-10, Sector-5, Devendra Nagar, P.S. & P.O. Devendra Nagar, Raipur, District Raipur (CG)

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Finance Mahanadi Bhawan, Capital Complex Distt. Raipur, Chhattisgarh
2. State of Chhattisgarh through Secretary, Tourism, Mahanadi Bhawan, Capital Complex, Distt. Raipur, Chhattisgarh
3. Commissioner Commercial Tax, Vanijyik Kar Bhawan Civil Lines, Raipur (CG)
4. Managing Director, Chhattisgarh Tourism Board, Paryatan Bhawan, Indira Gandhi Road, Telibandha, Raipur, District Raipur (CG)

---- Respondents

Writ Petition (T) No. 90 of 2013

M/s. Hotel Shubh (A unit of Labh Complex) A partnership firm having its business at 4/134, Fafadih Chowk, Raipur, through its Partner, Parduman Singh Chawla S/o Late Karam Singh Chawla, aged about 88 years, Resident of Fafadih Chowk, Raipur, P.S. & P.O. Fafadih, Raipur (CG)

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Finance Mahanadi Bhawan, Capital Complex Distt. Raipur, Chhattisgarh
2. State of Chhattisgarh through Secretary, Tourism, Mahanadi

Bhawan, Capital Complex, Distt. Raipur, Chhattisgarh

3. Commissioner Commercial Tax, Vanijyik Kar Bhawan Civil Lines, Raipur (CG)
4. Managing Director, Chhattisgarh Tourism Board, Paryatan Bhawan, Indira Gandhi Road, Telibandha, Raipur, District Raipur (CG)

---- Respondents

Writ Petition (T) No. 91 of 2013

M/s. Hotel Shamrock (A Unit of Hotel Shamrock Ventures Private Limited), a Company Incorporated under the provisions of the Companies Act, 1956 having its business at behind Jai Hind Market, Pandri, Raipur, through its Director, Chiranjiv Sinha S/o Shri N.V. Sinha, aged about 39 years, Resident of Pandri, Raipur, P.S. & P.O. Pandri, District Raipur (CG)

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Finance Mahanadi Bhawan, Capital Complex Distt. Raipur, Chhattisgarh
2. State of Chhattisgarh through Secretary, Tourism, Mahanadi Bhawan, Capital Complex, Distt. Raipur, Chhattisgarh
3. Commissioner Commercial Tax, Vanijyik Kar Bhawan Civil Lines, Raipur (CG)
4. Managing Director, Chhattisgarh Tourism Board, Paryatan Bhawan, Indira Gandhi Road, Telibandha, Raipur, District Raipur (CG)

---- Respondents

Writ Petition (T) No. 93 of 2013

M/s. Hotel Golden Oak, a proprietorship firm, having its business at M.G. Road, Dr. Viridi Gali, Mangrapara, Raipur, Through its Proprietor Prashant Nagwani, S/o Shri Harjas Nagwani, aged about 30 years, Resident of Anupam Nagar, P.S. & P.O. Anupam Nagar, Raipur, District

Raipur (CG)

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Finance Mahanadi Bhawan, Capital Complex Distt. Raipur, Chhattisgarh
2. State of Chhattisgarh through Secretary, Tourism, Mahanadi Bhawan, Capital Complex, Distt. Raipur, Chhattisgarh
3. Commissioner Commercial Tax, Vanijyik Kar Bhawan Civil Lines, Raipur (CG)
4. Managing Director, Chhattisgarh Tourism Board, Paryatan Bhawan, Indira Gandhi Road, Telibandha, Raipur, District Raipur (CG)

---- Respondents

And

Writ Petition (T) No. 94 of 2013

M/s. Punjab Palace Private Limited, a company incorporated under the provisions of the Companies Act, 1956 having its business at Kachahri Chowk, Jail Road, Raipur, through its Director, Manjeet Singh Saluja, S/o Shri Jaswant Singh Saluja, aged about 43 years, Resident of Saluja Mansion, Govind Nagar, Pandri, P.S. & P.O. Pandri, Raipur (CG)

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Finance Mahanadi Bhawan, Capital Complex Distt. Raipur, Chhattisgarh
2. State of Chhattisgarh through Secretary, Tourism, Mahanadi Bhawan, Capital Complex, Distt. Raipur, Chhattisgarh
3. Commissioner Commercial Tax, Vanijyik Kar Bhawan Civil Lines, Raipur (CG)
4. Managing Director, Chhattisgarh Tourism Board, Paryatan Bhawan, Indira Gandhi Road, Telibandha, Raipur, District Raipur (CG)

---- Respondents

For petitioners	:	Mr.Neelabh Dubey, Advocate
For State	:	Mr.Arun Sao, Dy.A.G.
For Res-Managing Director	:	Mr.Abhishek Sinha and
Chhattisgarh Tourism Board	:	Mr.Animesh Tiwari, Advocates

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

13/04/2017

1. Since common question of law and facts are involved in batch of writ petitions, they are being heard together and decided by this common order.

2. Learned counsel appearing for the petitioners would submit that petitioners application for grant of exemption from Luxury Tax and Vat Tax under the provisions of the Chhattisgarh Hotel Tatha Vas Grihon Me Vikas Vastuon Par Kar Adhiniyam, 1988 (hereinafter called as "Act of 1988") and the Chhattisgarh Value Added Tax Act, 2005 (hereinafter called as "Act of 2005") are pending since 2005 onwards before the High Level Committee constituted by the State Government in terms of the Notification dated 19.1.2000 and the said Committee has not taken a decision on the said applications since then and in the meanwhile, the Commissioner, Commercial Tax has issued the clarification dated 30.8.2013, which is prejudicial to their interest, whereas the State Government has withdrawn the notification dated 5.8.2000 w.e.f. 2.7.2013 and prior to that date, the notification dated 5.8.2000 would be applicable. Therefore, the Act of 1988 and the Act of 2005 are contrary to the notification of the State Government, as such, the High Level Committee be directed to decide the petitioners application in accordance with law.

3. On the other hand, learned Deputy Advocate General appearing for the State, would oppose the writ petitions.
4. Mr.Abhishek Sinha and Mr.Animesh Tiwari, learned counsel appearing for respondent-Managing Director, Chhattisgarh Tourism Board, would also oppose the writ petitions.
5. Undisputedly, the petitioners application for grant of exemption from Luxury Tax and Vat Tax under the provisions of the Act of 1998 and the Act of 2005 are pending consideration before the High Level Committee, therefore, it would be expedient to direct the High Level Committee to take a decision on the petitioners application strictly in accordance with law and as per law applicable preferably within a period of three months from the date of production of copy of this order without being influenced by the observation made hereinabove.
6. Learned counsel for the petitioners would submit that interim order is operating in favour of the petitioners since 29.6.2016 and three months time has been granted to resolve the dispute, interim protection be extended for a period of three months.
7. Since interim order has been passed by this Court and three months' time has been given to the High Level Committee to decide the question of exemption from payment of Luxury Tax and Vat Tax, it would be expedient to protect the petitioners for a period of three months from today.
8. Therefore, the writ petitions are disposed of with the following directions:-
 - (i) The High Level Committee constituted pursuant to the notification dated 24.2.2011 shall decide the petitioners application strictly in accordance with law and as per law applicable within a period of three months from the date of production of copy of this

order.

(ii) For the period of three months, no coercive steps shall be taken against the petitioners.

9. There shall be no order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-