IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2017

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THE HONOURABLE MR.JUSTICE K.RAVICHNDRABAABU

Writ Petition Nos.10112 to 10114 of 2017
and
WMP.Nos.11099 to 11101 of 2017

M/s.Oriental Hotels Limited
Rep. By its Associate Vice President - Finance
47, Paramount Plaza, Nungambakkam,
Chennai-600 034. ... Petitioner
(in WP Nos.10112 to 10114 of 2017)

Vs.

1. The Assistant Commissioner (CT)
Valluvarkottam Assessment Circle
Chennai-600 028.

2. The Appellate Deputy Commissioner (CT)
Chennai Central
C.T. New Building (Annex) III Floor,
No.1, Greams Road, Chennai-600 006. ... Respondents
(in WP Nos.10112 to 10114 of 2017)

Prayer :

Writ petition No.10112 filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in SP.No.63/16 in AP VAT 151/16 and quash the order dt. 05.10.2016 in so far as it limits the period of stay to 04.04.2017 or till the disposal of the appeal, whichever is earlier and further restrain the 1st respondent from taking any coercive measures for recovery of disputed taxes and penalty from the petitioner till the disposal of appeal in A.P. VAT 151/16 by the 2nd respondent.



Writ petition No.10113 filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in SP.No.64/16 in AP VAT 152/16 and quash the order dt. 05.10.2016 in so far as it limits the period of stay to 04.04.2017 or till the disposal of the appeal, whichever is earlier and further restrain the 1st respondent from taking any coercive measures for recovery of disputed taxes and penalty from the petitioner till the disposal of appeal in A.P. VAT 152/16 by the 2nd respondent.

Writ petition No.10114 filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in SP.No.65/16 in AP VAT 153/16 and quash the order dt. 05.10.2016 in so far as it limits the period of stay to 04.04.2017 or till the disposal of the appeal, whichever is earlier and further restrain the 1st respondent from taking any coercive measures for recovery of disputed taxes and penalty from the petitioner till the disposal of appeal in A.P. VAT 153/16 by the 2nd respondent.

For Petitioner : Mrs.Hema Muralikrishnan

For Respondents : Mr.K.Venkatesh
Government Advocate

C O M M O N O R D E R

These writ petitions are filed challenging the orders of the second respondent dated 05.10.2016 only insofar as it limits the period of stay upto 04.04.2017 is concerned.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

3. Having aggrieved over the orders of assessment in respect of assessment years 2008-2009, 2009-2010 and 2010-2011, the petitioner preferred appeals before the second respondent and also sought for interim stay of collection of the tax and penalty dues. The second respondent, by order dated 05.10.2016, granted interim stay for a period of six months or till the disposal of the appeals, whichever is earlier, subject to the conditions that the petitioner should pay 25% of the disputed amount of tax and furnish bank guarantee for the balance amount. There is no dispute in the fact that the petitioner has complied with both the conditions. The only grievance of the petitioner is that the stay was granted only for a period of six months, even though the appeals are yet to be disposed of. Therefore, the petitioner seeks for indulgence of this Court, for extending the stay till the disposal of the appeals.



4. Mr.K.Venkatesh, learned Government Advocate appearing for the respondents fairly submitted that the petitioner has complied with the conditions imposed while granting the interim stay and that the appeals are yet to be disposed of.

5. Needless to say that the Appellate Authority, once has chosen to grant the interim stay, subject to certain conditions

and when said conditions are also complied with, need not restrict the stay for a limited period especially when the appeals are still pending. In other words, there is no meaning in granting the stay only for six months and not disposing of the appeals within such time, if, for some reasons, the Appellate Authority is not in a position to dispose of the appeals within the said time for which the interim stay is granted. Therefore the period of stay has to be extended further unless there are compelling reasons or circumstances warrant the Appellate Authority not to do so. Therefore, I am of the view that the petitioner is entitled to get the stay extended till the disposal of the appeals.

6. Accordingly, the impugned order passed by the second respondent is modified only to the extent that the stay granted therein would operate till the disposal of the appeals by the second respondent. The second respondent / Appellate Authority is directed to dispose of the appeals within a period of two months from the date of receipt of a copy of this order. The petitioner should also co-operate with the Appellate Authority for the disposal of the appeals within the time stipulated by this Court. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Assistant Commissioner (CT)
Valluvarkottam Assessment Circle
Chennai-600 028.

2.The Appellate Deputy Commissioner (CT)
Chennai Central
C.T. New Building (Annex) III Floor,
No.1, Greams Road, Chennai-600 006.

+1cc to the Special Government Pleader(T), S.R.No.25228

Writ Petition Nos.10112
to 10114 of 2017

SSI(CO)
CA(04/05/2017)