



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.07.2017

CORAM :

THE HONOURABLE MR.JUSTICE T. RAJA

W.P (MD) No.12450 of 2017

and

WMP (MD) Nos.9600 and 9601 of 2017

Hotel Mano

Represented by its' Proprietor,

Y.Denson,

Chettikulam Junction,

Nagercoil.

... Petitioner

vs.

1.The Commercial Tax Officer,

Nagercoil (Tower Junction),

Mead Street,

Nagercoil 629 001.

2.The Deputy Commercial Tax Officer,

Nagercoil (Tower Junction),

Mead Street,

Nagercoil 629 001.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent in A3/1046/2015/Asst.No.33126143084 dated 15.06.2016/28-06-2016 and quash the same and the consequently direct the 2nd respondent to consider the representation of the petitioner dated 21.04.2017 and grant to the petitioner the information and documents required by the petitioner within such time as may be directed by the Hon'ble Court.

For Petitioner

: Mr.M.Azeem

For Respondents

: Mr.R.Karthikeyan

Additional Government Pleader

ORDER

This writ petition is directed against the Notice in A3/1046/2015/Asst.No.33126143084, dated 15.06.2016/28-06-2016, directing the petitioner to pay the arrears of tax amount of Rs.11,33,519/- specifically mentioning therein that in spite of three notices dated 27.08.2015 for the assessment years 2013-14 and 2014-15, 20.11.2015 for the assessment years 2011-12 and 2012-13 and 29.01.2016 for the assessment years 2013-14, 2014-15, 2011-12 and 2012-13, he has not paid the tax amount.



2.The learned counsel appearing for the petitioner assailing the impugned notice would submit that the petitioner has been running only a small non-vegetarian Hotel at Chettikulam Junction, Nagercoil. He suffered heart attack, therefore, he was admitted in PRS Hospital, Thiruvananthapuram, where he underwent coronary angioplasty on 14.06.2016, hence, he was taking rest and unable to attend the Hotel business regularly. The petitioner's son is dealing with the Hotel business, therefore, the petitioner was unable to file return. While so, the respondents issued a notice to the son of the petitioner on 02.03.2017 demanding payment of tax of Rs.4,53,407/- and penalty of Rs.6,80,112/- totalling a sum of Rs.11,33,519/- for the assessment years 2011-12 to 2014-15.

3.It is the contention of the petitioner that he was not even served with any notice or assessment order, therefore, he has given a representation to the respondents for grant of information and copies of documents required by him. Further, when there is no legal demand by the respondents for payment of any tax and penalty, the petitioner is unable to take statutory remedies.

4.But, this Court is not inclined to accept the contentions of the writ petitioner for the reason that it is the admitted case of the petitioner that while he was suffering from heart attack and taking treatment, his son was taking care of the Hotel, therefore, the petitioner cannot contend that he was totally unaware of the notices dated 27.08.2015, 20.11.2015 and 29.01.2016 respectively, demanding payment of tax served on his son. Even assuming that the petitioner was not aware of the said notices, he should have made representations then and there to the respondents to pass assessment order if not passed earlier. However, the petitioner has made representation only on 21.04.2017 after a lapse of more than one year, seeking information which he required stating that he was unaware of the aforesaid notices demanding payment of tax. It is also not known whether any assessment order has been passed for the abovesaid assessment years.

5.For the aforementioned reasons, this Court is not inclined to accede to the prayer made by the petitioner. It is for the petitioner to work out his remedy in the manner known to law.

With the above observation, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

/ True Copy /

Sub Assistant Registrar(C.S.)



To

1.The Commercial Tax Officer,
Nagercoil (Tower Junction),
Mead Street,
Nagercoil 629 001.

2.The Deputy Commercial Tax Officer,
Nagercoil (Tower Junction),
Mead Street,
Nagercoil 629 001.

+1cc to M/S.M.AZEEM, Advocate SR.No.63549

+1cc to Special Government Pleader, SR.No.63729

nbi

MAS/MR-KKR/SAR1:18.07.2017:3P-5C

W.P (MD) No.12450 of 2017
05.07.2017