IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2019

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NOS.11448 TO 11450 OF 2017
AND
W.M.P.NOS.12423 TO 12428 OF 2017

M/s.The Rock,
Represented by its Partner Mr.S.Kalaivanan,
No.219, 2nd Floor,
Gandhi Road, Velacherry,
Chennai - 600 042. ... Petitioner in all W.Ps

Vs

The Assistant Commissioner (CT),
Velacherry Assessment Circle,
28, Pasumpon Muthuramalingar Salai,
R.A.Puram, Chennai - 28. ... Respondent in all W.Ps

Prayer in W.P.No.11448 of 2017:
Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings of the Respondent in RC. No. 15/A4/2014-2015 dated 10.03.2017 and quash the same.

Prayer in W.P.No.11449 of 2017:
Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings of the Respondent in RC. No. 15/A4/2015-2016 dated 10.03.2017 and quash the same.

Prayer in W.P. No. 11450 of 2017: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings of the Respondent in RC. No. 15/A4/2017 dated 10.03.2017 and quash the same.

For Petitioner (in all W.Ps) : Mr.A.K.Jayaraj

For Respondent (in all W.Ps) : Mr.G.Dhanamadhri
Government Advocate (Tax)

COMMON ORDER

The Petitioner challenged the impugned orders passed by the Respondent for the Assessment Years 2014-2015, 2015-2016 and for a three months for Assessment Year 2017 vide separate orders dated 10.03.2017.

2. The case of the petitioner is that the Show Cause Notices which have culminated in the impugned order, were addressed to "The Rock, No:31/2, Tansi Nagar, First Floor, Taramani Link Road, Tharamani Road, Velachery, Chennai - 600 042", whereas, the registered address of the petitioner was "Tvl.Rock, No.42, Velachery Main Road, Vijaya Nagar, Velachery, Chennai, Kancheepuram - 600 042". It was submitted that it was not the addressed where the Petitioner was engaged in business.

3. It is submitted that merely because the one of the partner of the petitioner Tvl. The Rock and M/s.Dim Sum was common by itself would not mean that notices to Tvl.The Rock can be served at the address of M/s.Dim Sum. In any event, the notices were not received by any of the partners of the petitioner Tvl. The Rock. Therefore, it is submitted that the service of notices at the address of the M/s.Dim Sum on the petitioner Tvl. The Rock was not sufficient service of notice. Under these circumstances, it is submitted that impugned orders passed without notice to the petitioner Tvl. The Rock was in gros violation of principles of natural justice.

4. Per contra, the learned counsel for the Respondent represented the Government Advocate(Tax) submits that notices have been received by the staff of the Dim Sum for and on behalf of the Tvl. The Rock and therefore there was sufficient service of notice on the petitioner Tvl. The Rock. The learned Government Advocate appearing for respondent was unable to give any reasons as to why the notices were not served at the personal address/residential address of the concerned partners of Tvl. The Rock after the petitioner had been closed down the business and Registration was cancelled.

4. I have Considered the arguments advanced on behalf of the Petitioner and the Respondents as well as over all facts and circumstances of the case. I am of the view to meet the ends of justice, the Petitioner should be given one proper opportunity to reply as the respective notices were wrongly addressed to the Petitioner at the address of M/s. Dim Sum, 31/2, First Floor, First Street, Tansi Nagar, Taramani Link Road, Velacherry, Chennai which was not the address of the business of the Petitioner Tvl. The Rock. Mere service of notice on the staff of M/s. Dim Sum ipso facto will not amount to proper service of notice on Tvl.The Rock. At the same time, the fact that the

Petitioner has neither filed the returns during the relevant Assessment Year and had closed the business shows their intentions was not bonafide. Therefore, the Petitioner may demonstrate its bonafide by depositing a sum of Rs.25 lakhs.

5. The Petitioner is therefore directed to a sum of Rs.25 lakhs within a period of four weeks from the date of receipt of copy of this order for all the Assessment Years together before the respondent and on such receipt of the amount, the impugned orders passed by the Respondent shall stands set aside. The orders passed by the Respondent shall be treated as show cause notice. The Petitioner shall thereafter file their reply within a period of 15 days. The Respondent Assistant Commissioner (CT) shall thereafter pass such appropriate orders within period of three months from the date of receipt of the reply from the petitioner.

6. The Writ Petitions stand disposed of with the above directions. No costs. Consequently, connected writ miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-I)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (CT),
Velacherry Assessment Circle,
28, Pasumpon Muthuramalingar Salai,
R.A.Puram, Chennai - 28.

+1cc to the Special Government Pleader(T), S.R.No.103234

W.P.Nos.11448 to 11450 of 2017
and
W.M.P.Nos.12423 to 12428 of 2017

SPD(CO)
CS/04/02/2020