BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.10273 to 10280 of 2017 and
W.M.P.(MD)Nos.7857 to 7860 & 7862 to 7865 of 2017

M/s.Hotel Sugam,
Rep. by its Partner Vathanaa Inigo,
No.207, V.E.Road, Tuticorin. ... Petitioner in all Writ Petitions

Vs.

The Assistant Commissioner(CT)-II,
Tuticorin. ... Respondent in all Writ Petitions

Common Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in TIN 33545842444/Form-I/2014-15, 2013-14, 2012-13, 2015-2016, in TIN:33545842444/Form-J/2012-13, 2013-2014, 2014-2015 and 2015-2016 respectively, dated 03.04.2017 issued by the respondent and quash the same as arbitrary, illegal and against the principles of natural justice and direct the respondent to pass assessment order afresh after furnishing records as requested by the petitioner vide letter of objections dated 31.03.2017 and 27/03/2017 (in WP(MD)No.10278/2017) including the opportunity of being heard to the petitioner within such time as may be directed by this Court.

(in all W.Ps.)
For Petitioner : Mr.S.Karunakar
For Respondents : Mr.G.Arjunan,
Government Advocate.

C O M M O N O R D E R

Heard the learned counsel on either side.

2. M/s.Hotel Sugam has filed these eight writ petitions in respect of four assessment years; 2012-13 to 2015-16.

3. The petitioner's assessment for the aforesaid years was originally finalised on a deemed assessment basis. But noticing certain discrepancies during the inspection conducted by the enforcement wing on 16.11.2015, the assessments were sought to be reopened. Pre-revision notices were issued. The petitioner gave their objections by pointing out that based on the details found out in respect of one year, the same cannot be made applicable for the previous years. Each year will have to be independently dealt with based on the respective account books and records. After such objections were filed by the petitioner, the respondent ought to have issued personal hearing notice to the petitioner. Such an opportunity was not given. Of course in the pre-revision notice, it was mentioned that it is open to the petitioner to avail an opportunity of personal hearing. It has already been held in *Amararaja Batteries* case, the respondent has to issue personal hearing notice. The same was not done. Therefore, the orders impugned in these writ petitions are quashed.

4. The writ petitions are allowed. The matter is remitted to the respondent to pass orders afresh in accordance with law. When the writ petitions were entertained at the admission stage, the petitioner was put on terms and the petitioner is said to have paid 25% of the demanded tax. The said remittance will abide by the outcome of the orders to be passed by the respondent, after remand. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar(CS)

PMU

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

The Assistant Commissioner(CT)-II,
Tuticorin.

2cc's TO MR. S.KARUNAKARAN, ADVOCATE SR 11765

1CC TO THE SPL GOVT PLADER SR 11956

TR
06/05/2021
3P/5C

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