IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

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THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.Nos.21494, 21496, 21497, 21500 & 21503 of 2022
and W.M.P.Nos.20506, 20508 to 20512, 20514,
20515, 20518 & 20519 of 2022

M/s.Ramanuja Hotels Private Limited
Represented by its Managing Director
K.Natarajan

.. Petitioner in all W.Ps.

Vs.

The Commercial Tax Officer,
Pollachi (West), Assessment Circle,
Pollachi. ... Respondent in all W.Ps.

Prayer in W.P.No.21494 o 2022: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari calling for the records of the respondent relating to the order dated 25.10.2021 and received by the petitioner on 17.02.2022 made in respect of TIN:33482242419 for the Assessment Year 2009-2010 read with recovery notices issued by the respondent in Na.Ka.No.-302/2017/A3 dated 04.04.2022 and Na.Ka.No.-3022017-A3 dated 05.05.2022 and Na.Ka.No.302/2017/A3 dated 10.06.2022 and quash the same.

Prayer in W.P.No.21496 of 2022: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari calling for the records of the respondent relating to the order dated 25.10.2021 and received by the petitioner on 17.02.2022 made in respect of TIN:33482242419 for the Assessment Year 2010-2011 read with recovery notices issued by the respondent in Na.Ka.No.-302/2017/A3 dated 04.04.2022 and Na.Ka.No.-302/2017/A3 dated 05.05.2022 and Na.Ka.No.302/2017/A3 dated 10.06.2022 and quash the same.

Prayer in W.P.No.21497 of 2022: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari calling for the records of the respondent relating to the order dated 25.10.2021 and received by the petitioner on 17.02.2022 made in respect of TIN:33482242419 for the Assessment Year 2011-2012 read with recovery notices issued by the respondent in Na.Ka.No.-302/2017/A3 dated 04.04.2022 and Na.Ka.No.-302/2017/A3 dated 05.05.2022 and Na.Ka.No.302/2017/A3 dated 10.06.2022 and quash the same.

Prayer in W.P.No.21500 of 2022: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari calling for the records of the respondent relating to the order dated 25.10.2021 and received by the petitioner on 17.02.2022 made in respect of TIN:33482242419 for the Assessment Year 2012-2013 read with recovery notices issued by the respondent in Na.Ka.No.-302/2017/A3 dated 04.04.2022 and Na.Ka.No.-302/2017/A3 dated 05.05.2022 and Na.Ka.No.302/2017/A3 dated 10.06.2022 and quash the same.

<u>Prayer in W.P.No.21503 of 2022:</u> Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari calling for the records of the respondent relating to the order dated 25.10.2021 and received by the petitioner on 17.02.2022 made in respect of TIN:33482242419 for the Assessment Year 2013-2014 read with recovery notices issued by the respondent in Na.Ka.No.-302/2017/A3 dated 04.04.2022 and Na.Ka.No.-302/2017/A3 dated 05.05.2022 and Na.Ka.No.302/2017/A3 dated 10.06.2022 and quash the same.

In all Writ Petitions

For Petitioner : Mr.T.Mohan
Senior Counsel

For Respondent : Mrs.Vasanthan
Additional Govt.Pleader.

COMMON ORDER

In these writ petitions, the petitioner has challenged the impugned assessment order was passed pursuant to the order dated 25.10.2021, wherein, it was held as under:-

> "8. The dealer not availed personal hearing offered within the notice period, but, they requested personal hearing separately in their above letter. So as to upheld the natural justice a separate personal hearing was offered vide this office Notice dated 24.09.2021, for all assessment years, in the reference 5th cited, posting it on 04.10.2021 at 3.00 p.m. The dealer replied on 04.10.2021 that he had been affected by Covid-19 on 02.10.2021 and requested further 15 days time. But, even after 15 days time, the dealer not appeared for personal hearing or submitted willingness so far."

2. This is the second round of litigation. Earlier Assessment order dated 27.06.2016 for the respective assessment years were the impugned orders before this Court in W.P.Nos.26721 to 26723 & 27126 to 27128 of 2016. By a common order dated 19.05.2020, these writ petitions were disposed with the following observations:-

> 39.Therefore, I am inclined to set aside the impugned orders and remit the case back to the respondent to pass afresh order.
>
> 40. The respondent may obtain necessary information from the Department of Tourism, India Tourism, Anna Salai as to whether One Star classification obtained by the petitioner vide order dated 12.11.2009 was on the strength of the aforesaid restaurant and kitchen or whether a separate kitchen and a separate dinning area

existed for serving food to the guest who stay temporarily in the rooms. A copy of any information which may be obtained by the respondent from Department of Tourism, India Tourism, Anna Salai shall be served on the petitioner before passing final orders. The petitioner may also produce such documents and evidence to establish its defence.

41. In the light of the above discussion, I pass the following order:-

i. impugned orders are set aside and the cases are remitted back to the respondent to pass fresh orders for the respective assessment years within a period of six months from date of receipt of a copy of this order;
ii. before passing fresh such orders, the respondent may obtain necessary information from the Department of Tourism, Anna Salai and furnish a copy of the same to the petitioner regarding the basis on which the One Star Classification/certification dated 12.11.2009 was issued to the petitioner;
iii. petitioner may also independently furnish such informations that may be required to substantiate its defence;
iv. before passing fresh orders in the remand proceedings, petitioner shall also be heard, through video conferencing, if the situations so warrant on account of continuance of Covid19 pandemic.

> 42. These writ petitions stand disposed of with the above observations. Consequently, connected miscellaneous petitions are closed. No costs.

3. The respondent had fixed personal hearing on 04.10.2021 and same was intimated by the respondent to the petitioner vide letter dated 24.09.2021. The specific case of the petitioner is that the petitioner was afflicted with Covid-19 and therefore requested the respondent for 15 days time. The respondent has however proceeded to pass the impugned order stating that the petitioner has not filed any reply pursuant to personal hearing fixed within the stipulated time. It is further observed that despite time being granted to the petitioner, the petitioner did not appear on that day.

4. I have considered the arguments advanced by the learned senior counsel for the petitioner and the learned Additional Government Pleader for the respondent. The petitioner deserves a fair chance. The petitioner was incapacitated from appearing for the personal hearing due to Covid-19. It was incumbent on the part of the respondent to re-fix the personal hearing after the petitioner has sought for adjournment. The Assessing Officer cannot expect the assessee appear without intimation for personal hearing after that the case was initially adjourned.

5. Therefore, these writ petitions are disposed of without expressing any opinion on merits of the case by directing the respondent to pass a fresh order on merits after hearing the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

07.09.2023

Index : Yes/No
Neutral Citation : Yes/No
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To

The Commercial Tax Officer,
Pollachi (West), Assessment Circle,
Pollachi.

C.SARAVANAN, J.

kkd

W.P.Nos.21494, 21496, 21497,
21500 & 21503 of 2022

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