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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) Nos.23043 to 23045 of 2022
and
W.M.P.(MD) Nos.17152, 17153, 17155, 17157, 17154 & 17156 of 2022

Tvl. Raja Rajeswari Towers,
Rep. by its Proprietor
R.G.Rethinam,
Rajeswari Towers,
1/1090-1, Bharathi Nagar,
Pattinamkathan,
Ramanathapuram District. ... Petitioner in all W.Ps.

Vs.

The Commercial Tax Officer,
(Now State Tax Officer)
Ramanathapuram Assessment Circle,
Ramanathapuram. ... Respondent in all W.Ps.

Common Prayer: Writ Petitions filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings of the respondent in TIN. 33285444111/2014-15 dated 29.04.2016, TIN.33285444111/2013-14 dated 29.04.2016 and TIN.9482/2014-15 dated 11.11.2016 and quashing the same and further directing the respondent to re-do the assessment

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proceedings afresh after providing reasonable opportunities to the petitioner.

For Petitioner
in all W.Ps. : Mr.Raja Karthikeyan

For Respondent
in all W.Ps. : Mr.J.K.Jayaseelan
Government Advocate

COMMON ORDER

By this common order, all these Writ Petitions are being disposed of.

2. Mr.J.K.Jayaseelan, learned Government Advocate, takes notice for the respondent. With the consent of the learned counsel for the petitioner and the learned Government Advocate for the respondent, these Writ Petitions are taken up for final disposal at the time of this admission.

3. In these Writ Petitions, the petitioner has challenged the following impugned assessment orders:-

Sl. No	W.P. (MD) No.	Impugned assessment order dated	A.Y.	Impugned Assessment Order No.
1	23043/22	29.04.2016 *	2014-15	TIN.33285444111/2014-15
2	23044/22	29.04.2016 *	2013-14	TIN.33285444111/2013-14
3	23045/22	11.11.2016 #	2014-15	TIN.9482/2014-15

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* For Restaurant

For Rooms in the Restaurant

4. Before these impugned assessment orders were passed, the following pre-assessment notices were issued to the petitioner:-

Sl. No	W.P.(MD) No.	Pre-assessment notice dated	Proposed Tax Amount	
1	23043/22	02.11.2015	Due - Rs.1,37,663/- Paid - Rs. 12,000/- ------------------ Bal. - Rs.1,25,663/-	Rs.1,25,663/-
2	23044/22	02.11.2015	Due - Rs.80,797/- Paid - Rs.14,156/ ------------------ Bal. - Rs.66,641/-	Rs.66,641/-
3	23045/22	29.07.2016	Due - Rs.5,42,459/- Paid - Rs. 52,610/- ------------------ Bal. - Rs.4,89,849/-	Rs.4,89,849/-

5. The specific case of the petitioner is that the petitioner's premises was inspected on 06.06.2014 and 07.06.2014. Thereafter, the respondent claims to have issued aforesaid notices which have now culminated in the impugned assessment orders. It is submitted that the petitioner failed to

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respond to the aforesaid pre-assessment notices as these notices were not received by the petitioner. It is submitted that the petitioner also did not receive any copy of the impugned assessment orders and the petitioner was surprised when the respondent sought to recover the tax amount confirmed in the impugned assessment orders including the penalty and interest. The learned counsel for the petitioner submits that if given the opportunity, the petitioner will be able to explain the case.

6. The learned Government Advocate for the respondent would submit that these Writ Petitions are hopelessly time-barred as the impugned orders are of the year 2016, whereas, these Writ Petitions have been filed only on 26.09.2022. Therefore, these Writ Petitions are liable to be dismissed.

7. That apart, the learned Government Advocate for the respondent would submit that even otherwise, as per the decision of the Hon'ble Supreme Court in **M/s.Singh Enterprises** Vs. **Commissioner of Central Excise, Jamshedpur and others**, (2008) 3 SCC 70, these Writ Petitions are liable to be dismissed. He also placed reliance on the decision of the Hon'ble Supreme Court in **Assistant Commissioner (CT), LTU,**

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Kakinada and others Vs. **Glaxo Smith Kline Consumer Health Care Limited**, 2020 SCC OnLine SC 44.

8. Having considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondent, and considering the fact that the petitioner may have a case, this Court is inclined to exercise its discretion in favour of the petitioner by quashing the impugned assessment orders and allowing the petitioner to file reply to the respective pre-assessment notices, within a period of 30 days from the date of receipt of a copy of this order.

9. The impugned assessment orders which stand quashed in this order shall be treated as addendums to the respective pre-assessment notices. Therefore, the petitioner shall file a consolidated reply to the same.

10. The petitioner shall also pay 25% of the disputed tax as a condition within the aforesaid period of 30 days from the date of receipt of a copy of this order, failing which, it will be construed that these Writ Petitions stand dismissed and the respondent will be at liberty to proceed

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against the petitioner to recover the amount confirmed in the impugned assessment orders along with penalty and interest.

11. If the petitioner pays 25% of the disputed tax and file a reply to the notices and addendums to the notices, the respondent shall pass fresh orders on merits and in accordance with law.

12. In the result, these Writ Petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

12.06.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

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Copy To:

The Commercial Tax Officer,
(Now State Tax Officer)
Ramanathapuram Assessment Circle,
Ramanathapuram.

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C.SARAVANAN, J.

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