IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.01.2016
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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.32569 of 2015
and
M.P.Nos.1 and 2 of 2015

M/s.Shri Coimbatore Jewellers India Pvt. Ltd.
rep. by its Director K.R.Premnath
Salem- 636 001 ... Petitioner

Vs

The Assistant Commissioner (CT)
Bazaar Assessment Circle,
Salem, Salem District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records on the file of the respondent in its impugned proceedings made in TIN: 33422782980/2012-13 dated 28.09.2015 and quash the same.

For Petitioner : Mr.R.Hemalatha
For Respondents : Mr.S.Manoharan Sundaram, AGP

O R D E R

Challenging the assessment order dated 28.09.2015 passed by the respondent relating to the year 2012-13, the petitioner has filed this writ petition.

2.According to the petitioner, the petitioner is the manufacturer and seller of Gold, Silver, Platinum and Diamond Jewels, silver articles, imitation jewels and watches etc. For the assessment year 2012-13, the petitioner duly filed their returns. Thereafter, various notices from 12.03.2015 to 25.09.2015 came to be issued, for which, the petitioner filed their objections in detail, wherein, the petitioner specifically sought for personal hearing, so as to produce their material evidence with regard to various issues involved therein. Upon receipt of the same, a personal hearing was fixed on 07.10.2015 and the same was intimated to the petitioner, by a communication dated 25.09.2015. However, the respondent passed the assessment order on 28.09.2015, without hearing the petitioner. Aggrieved against the same, the petitioner is before this court.

3.Learned counsel for the petitioner submitted that though the petitioner was directed to appear for personal hearing on 07.10.2015, the respondent passed the impugned order on 28.09.2015 itself, before the said date, which clearly shows the non-application of mind on the part of the authority concerned, as such, the same is arbitrary, illegal and against the principles of natural justice.

4.Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent and perused the materials available on record.

5.Admittedly, for the assessment year 2012-13, various notices were sent to the petitioner, for which, the petitioner filed their objections furnishing all the details and also requesting personal hearing. Accordingly, the respondent fixed the personal hearing on 07.10.2015. However, before the said date, the respondent passed the impugned assessment order for the year in question, which in my considered view, is non application of mind on the part of the respondent and in violation of the principles of natural justice. On this score alone, the impugned order is liable to be set aside.

6.Accordingly, the order dated 28.09.2015 passed by the respondent for the assessment year 2012-13 is set aside and the matter is remitted back to the respondent for passing fresh orders. The petitioner is permitted to appear before the respondent for personal hearing with written objections along with documentary evidence if any, within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the respondent is directed to consider the same and pass fresh assessment order for the year in question on merits and in accordance with law within a period of six weeks.

7.The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The Assistant Commissioner (CT)
Bazaar Assessment Circle,
Salem, Salem District.

+1 cc to M/s.R.Hemalatha Advocate sr.14/16
+1 cc to Special Government Pleader sr.142/16

W.P.No.32569 of 2015

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