

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.1904 of 2017

And

W.M.P.No.1924 of 2017

M/s.South India Jewellers
Rep. by its Proprietor ... Petitioner
Sowcarpet, Chennai 1

Vs.

The Assistant Commissioner (CT),
Peddunaickenpet Assessment Circle,
Wavoo Mansion, Chennai. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in the order in TIN:33940280535/ 2013-14, DT:09.12.2016 and quash the same as contrary to the provisions of TNVAT Act and against the principle of natural justice and further direct the respondent to consider the reply dt.7/11/16 and provide an opportunity of personal hearing.

For Petitioner : Ms.C.Rekha Kumari

For Respondents : Mr.Kanmani Annamalai

Additional Government Pleader (Taxes)

O R D E R

1.Issue Notice. Mr.Kanmani Annamalai, learned Additional Government Pleader (Taxes), accepts notice on behalf of the respondent. With the consent of the learned counsels for parties, the writ petition is taken up for hearing and final disposal.

2.This writ petition concerns the assessment year 2013-14. By virtue of this writ petition, challenge is laid to the order dated 09.12.2016.

3.It appears that prior to the issuance of the impugned order, pre-revision notice dated 28.09.2016, was served on the petitioner. The petitioner sought for extension of time vide, communication dated 17.10.2016. The objections to the notice dated 28.09.2016 were preferred by the petitioner, via, reply dated 07.11.2016. These objections were filed with the office of the respondent on 08.11.2016.

4.It appears that, despite the fact that objections were filed, the respondent proceeded to pass the impugned order, without considering the objections, which appears to have been done as the respondent, perhaps, was unaware of the fact that objections have been lodged with the office. Furthermore, the record shows that representation dated 02.01.2017, was filed seeking to bring this fact with the notice of the respondent. The said representation was lodged with the respondent's office on 03.01.2017. It appears that the said representation has not been dealt with.

5.In view of the aforesaid circumstances, obtaining, I have asked Mr.Annamalai, as to whether the impugned order can sustain in view of what has emerged from the record, Mr.Annamalai, concedes that the assessment would have to be redone.

6.Accordingly, the impugned order is set aside. The respondent, however, will be at liberty to pass a fresh order, after giving due opportunity to the petitioner. For this purpose, a written notice will be sent to the petitioner indicating therein, the date, venue and time of the hearing. The petitioner will have liberty to file all original documents, if not already filed, in support of his objections. Needless to say, the respondent will pass a speaking order, after considering the objections of the petitioner.

7.The writ petition is disposed of in the aforementioned terms.

Consequently, the connected pending application is also closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

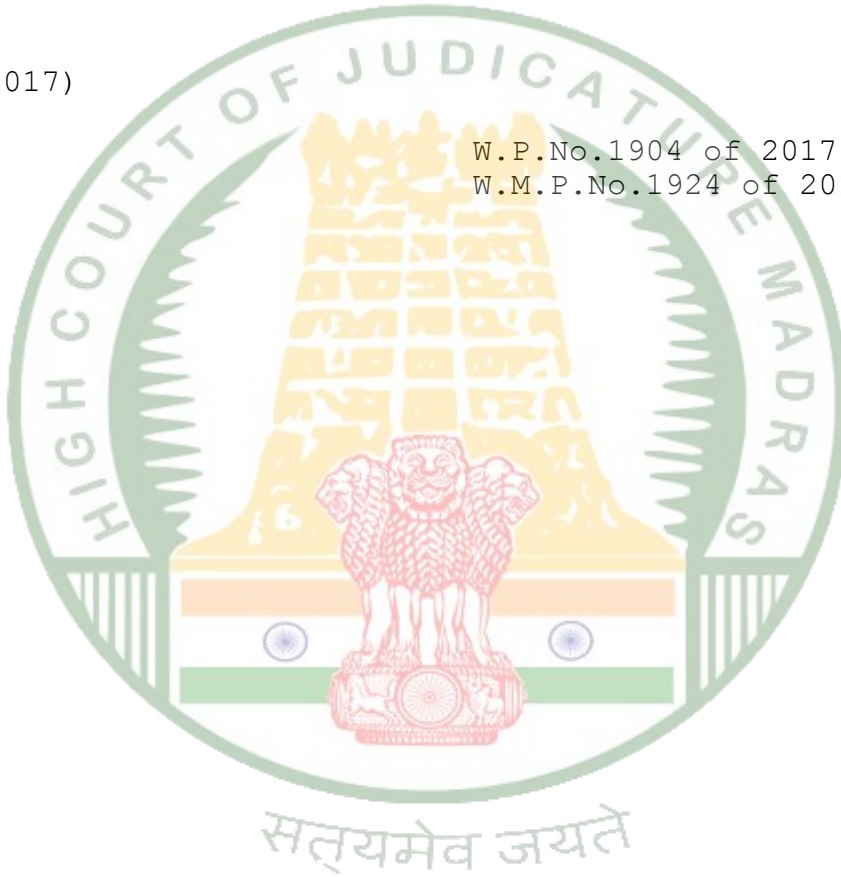
To

The Assistant Commissioner (CT),
Peddunaickenpet Assessment Circle,
Wavoo Mension, Chennai.

+lcc to Mr.C. Lakshmikumaran, Advocate, S.R.No.5891
+lcc to the Spl.Government Pleader, S.R.No.5260

gmi (CO)
md(17/02/2017)

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