IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.02.2019

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.Nos.3356, 3363, 3368, 3372 and 3373 of 2019
& Connected WMPs

Tvl. Mangilal Jewellers (P) Ltd.
Represented by its Managing Director
Mr.D.Rajendrakumar

... Petitioner in the above W.Ps

-vs-

1. The Assistant Commissioner, (ST) (FAC)
Commercial Tax Department,
Thirukazhukundram Assessment Circle.

2. The Deputy Commercial Tax Officer,
Group II and Group III,
Enforcement South,
Thirukazhukundram.

.. Respondents in the above W.Ps

PETITIONs filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records relating to the proceeding of the 1st respondent in TIN/33281605821/2011-12, 2015-16, 2013-14, 2014-15 and 2012-13 respectively dated 16.10.2018 and quash the same and consequently direct the respondents to conduct fresh enquiry and pass assessment order for the years 2011-12 2015-16, 2013-14, 2014-15 and 2012-13 respectively.

For Petitioner in the above W.Ps : Mr.B.RamesshKumar

For Respondents in the above W.Ps: Mr.Mohammed Shaffiq
Standing Counsel

C O M M O N O R D E R

Mr.Mohammed Shafiq, learned Standing Counsel takes notice for the respondents. At request and by consent of both parties, the Writ Petitions are taken up for final disposal.

2. This batch of Writ Petitions challenge separate orders of assessment dated 16.10.2018 in respect of Assessment Years 2011-12 to 2015-16. The assessments appear to have been framed based on an inspection and audit conducted by the Commercial Tax Authorities on 21.06.2017. The sole ground on which the orders of assessment have been attacked is lack of opportunity and specifically lack of personal hearing, prior to finalization of the assessments.

3. A cursory glance at the orders of assessment dated 16.10.2018 would show that various adjustments and modifications have been made to the return of income filed by the assessee in relation to reversal of Input Tax Credit, non-payment of tax on packing materials, compliments and gifts and other incomes. Notices were issued calling upon the assessee/petitioner to file objections to the proposal to revise the returns filed by it, in response to which the petitioner filed detailed objections dated 21.12.2017 enclosing various annexures in support of its stand. However, the orders of assessment, passed on 29.10.2018, after a gap of ten months from the date of submission of the objections reveal absolutely no application of mind to the objections raised. No personal hearing was afforded to the assessee to make his submissions prior to orders of assessment being passed.

4. It is settled law that an order imposing a liability or raising a demand on a person should state the reasons for the adjustments and additions made. Seen in this light, the impugned orders are indefensible and liable to be set aside.

5. The assessee will appear before the Assessing Authority/first respondent on 22.02.2019 at the first instance and after considering the written objections already filed as well as the submissions in the course of hearings to be conducted, assessment will be framed de novo within a period of three (3) months from the date of conclusion of the personal hearing.

6. The Writ Petitions are allowed in the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

1. The Assistant Commissioner, (ST) (FAC)
   Commercial Tax Department,
   Thirukazhukundram Assessment Circle.

2. The Deputy Commercial Tax Officer,
   Group II and Group III,
   Enforcement South,
   Thirukazhukundram.

+1cc to Mr. B.RamesshKumar, Advocate SR.No. 9878
+1 CC TO GOVERNMENT PLEADER SR.NO. 10329

W.P.Nos.3356, 3363, 3368,
3372 and 3373 of 2019
& Connected WMPs

A.SK(26/02/2019)