BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 08.11.2019
CORAM:
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ
W.P.(MD) No.23186 and 23188 of 2019
and
W.M.P.(MD).No.19907 and 19908 of 2019
in
W.P.(MD) No.23186 and 23188 of 2019

M/s.Kalyan Jewellers
rep. by its Chief Manager,
No.146, Nethaji Road,
Madurai. ... Petitioner in both W.Ps

vs.

The Assistant Commissioner (ST)
Nethaji Road Circle,
Madurai. ... Respondent in both W.Ps

PRAYER in W.P.(MD).No.23186/2019:

Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records of the impugned order of re-assessment in TIN.33474982529/2012-2013 dated 30-09-2019 from the files of the respondent herein, quash the same.

PRAYER in W.P.(MD).No.23188/2019:

Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records of the impugned order of re-assessment in TIN.33474982529/2011-2012 dated 30-09-2019 from the files of the respondent herein, quash the same.

For Petitioner : Mrs.Aparna Nandakumar
For Respondents : Mr.M.Rajarajan
Government Advocate
(in both W.Ps)

O R D E R

Mr.M.Rajarajan, learned Government Advocate, takes notice on behalf of the respondent.

2.By consent of both sides, the writ petitions itself are taken up for final disposal.

3.These writ petitions have been filed challenging the impugned orders of re-assessment in TIN.Nos.33474982529/2012-2013 and 3474982529/2011-2012 dated 30-09-2019 on the file of the respondent herein.

4.The petitioner is a dealer in gold. He filed returns for the assessment years 2011-12 and 2012-13. Pursuant to the surprise inspection conducted by the Enforcement Wing Officials, a revision notice was issued and it was found that there is mismatch in the sales and purchase. In so far as suppression of sales, a proposal was made and in the process, a revision notice was issued, objections were filed and opportunity of personal hearing was also afforded. However, while passing the orders in TIN.33474982529/2012-2013 and TIN.33474982529/2011-2012, dated 30.09.2019, the Assessing Authority failed to consider the objections raised by the petitioner vide letters dated 19.05.2017 and 01.08.2018. A perusal of objections filed by the petitioner reveals that even though they disclosed their purchase of gift articles and explained the scheme does not involve any sale, the specific objections with regard to the proposals were not considered and the Assessing Authority simply relied on the returns filed by the Enforcement Wing Officials and passed orders.

5.Considering the above submissions, this Court is inclined to set aside the impugned orders in TIN.33474982529/2012-2013 and TIN.33474982529/2011-2012, dated 30.09.2019. Accordingly, the impugned order dated 30.09.2019 is set aside and the matter is remitted back to the authorities. The Assessing Authority shall consider all the objections filed by the petitioner and provide an opportunity of personal hearing for explaining the accounts of the petitioner and pass a reasoned order within a period of four weeks from the date of receipt of a copy of this order.

6.Accordingly, the writ petitions are allowed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS)

vs

To

The Assistant Commissioner (ST)
Nethaji Road Circle,
Madurai.

+2 CC to M/s.APARNA NANDAKUMAR, Advocate (SR-96900[F] dated 08/11/2019)
+1 CC to M/s.GP (SR-97237[F] dated 11/11/2019)

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