IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2022

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.27948, 27952, 27957, 27955, 27954, 27958 & 27960 of 2022 & WMP.Nos.27239, 27240, 27245, 27249, 27255, 27258, 27243, 27246, 27251, 27252, 27256, 27257, 27259 & 27260 of 2022

WP.No.27948 of 2022

M/s.Lalitha Jewellery Mart Private Limited,
Represented by its Director:
Mr.P.Rajeswaran,
Having Office at:
No.53, I Con Savithiri Ganesh Building,
Habibullah Road, T.Nagar, Chennai,
Tamil Nadu-600017 ... Petitioner

Vs

Deputy Commissioner of Income Tax,
Central CIR 1(4),
Office of the Deputy Commissioner of Income
3rd Floor, Investigation Building,
No.46 (Old No.108), Mahatma Gandhi Road,
Chennai, Tamil Nadu-34 ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorari, calling for the records of the Respondent including the appraisal report and satisfaction memo, if any, culminated in passing the Impugned order ITBA / AST / S / 153A / 2022-23 / 1046027190 (1) dated 27.09.2022 for the Assessment Year 2015-2016 under section 153A of the income Tax Act 1961 and consequential Demand Notice ITBA / AST / S / 156 / 2022-23 / 1046027253 (1) dated 27.09.2022 issued under section 156 of the income Tax Act 1961 and quash the same as illegal arbitrary and devoid of merits.

In all WPs

For Petitioner	: Mr.G.Shivadass Senior Counsel : for Mr.Akhil R.Bhansali
For Respondents	: Mr.A.P.Srinivas Senior Standing Counsel

COMMON ORDER

These writ petitions challenge orders of assessment passed in terms of the provisions of the Income Tax Act, 1961 (in short 'Act'). Orders in WP.Nos.27960, 27958, 27957, 27955, 27952 & 27948 of 2022 have been passed under Section 153A upon a search and seizure action under Section 132 of the Act conducted in the premises of the petitioner between 04.03.2021 to 07.03.2021. The order impugned in WP.No.27954 of 2022 is passed under Section 143(3) of the Act.

2. When these matters had come upon for admission on 18.10.2022, the following orders had been passed after hearing the rival contentions of the parties:

> *Mr.A.P.Srinivas, learned Senior Standing Counsel accepts notice for the respondents and seeks some time to obtain instructions and file a counter.*
>
> *2. The primary argument that is advanced relates to the violation of principles of natural justice. A perusal of the list of dates and events indicates that notices under Section 153A have been issued in December 2021. The petitioner has filed returns and notices and questionnaires have been issued thereafter.*

3. The responses of the petitioner have been filed in March 2022. Show cause notices have been issued in September 2022, however, granting only, in average, one week for reply. Prima facie, the time granted for reply does not appear to be adequate.

4. List on 11.11.2022 at the end of admission list.

5. Status quo of recovery till 11.11.2022.

3. These matters were directed to be listed today to enable the learned Standing Counsel to obtain instructions in regard to the violations of natural justice that had been noticed in the above order. Instructions dated 09.11.2022 have been obtained by learned Standing Counsel and a copy of the same is placed on file.

4. The officer, fairly, does not dispute the fact that the orders in WP.Nos.27960, 27958, 27957, 27955, 27952 & 27948 of 2022 have been passed on 27.09.2022, within an average of ten days from date of issuance of show cause notices for assessment years 2015-16 to 2020-21.

5. The limitation for passing of the aforesaid orders under Section 153A of the Act, admittedly, expires on 31.03.2023 as the last date of the authorizations is dated 06.07.2021. To be noted that Section 153B provides for a limitation of one year from the end of the financial year in which the last of the authorization was issued for completion of the assessments under Section 153A.

6. As far as the order of assessment challenged in WP.No.27954 of

2022 is concerned, a regular assessment, limitation for completion of the same expires on 31.03.2023.

7. In light of the apparent violation in compliance with the principles of natural justice, all impugned orders of assessment are set aside. Let the petitioner be heard and orders passed de novo, in accordance with law and in strict adherence to the principles of natural justice and law, within the expiry of limitation.

8. To facilitate the commencement of the proceedings, let the petitioner appear before the authority on Friday, the 18th of November, 2022 at 10.30 a.m. without awaiting any further notice in this regard. It is made clear that both parties will conduct themselves appropriately during the process of assessment ensuring that the proceedings are completed well within limitation and in accordance with law.

9. These writ petitions are disposed in the above terms. No costs. Connected miscellaneous petitions are closed.

Ska **11.11.2022**
Index : Yes/No
Speaking Order/Non speaking Order

To

Deputy Commissioner of Income Tax,
Central CIR 1(4),
Office of the Deputy Commissioner of Income
3rd Floor, Investigation Building,
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Chennai, Tamil Nadu-34

Dr.ANITA SUMANTH, J.,
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