IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2023

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.Nos.10912, 10916, 10919, 10923 of 2021
and
W.M.P.Nos.11544, 16207, 11549, 16209, 11553, 16210, 11557, 16211 of 2021

Tvl.Gajaananda Jewellery Mart (P) Ltd.,
Karuvampalayam,
Tiruppur. ... Petitioner in all petitions

v.

The Assistant Commissioner (ST),
Tirupur South Circle. ... Respondent in all petitions

Prayer in W.P.No.10912 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the Respondent in order dated 22.03.2021 in TIN/33042325499/2011-12 and quash the same.

Prayer in W.P.No.10916 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the Respondent in order dated 22.03.2021 in TIN/33042325499/2012-13 and quash the same.

Prayer in W.P.No.10919 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the Respondent in order dated 22.03.2021 in TIN/33042325499/2013-14 and quash the same.

Prayer in W.P.No.10923 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the Respondent in order dated 22.03.2021 in TIN/33042325499/2014-15 and quash the same.

For petitioner in all petitions : Mr.Adithya Reddy

For Respondent in all petitions : Mr.T.N.C.Kaushik,
Additional Government Pleader

COMMON ORDER

The impugned orders of assessment have been challenged on the limited grounds that the objection filed by the petitioner has been rejected on the premise that the petitioner had filed their objection beyond the time stipulated by this Court.

2.1. In the earlier round of litigation, the writ petitions in W.P.Nos.10597 to

10601 of 2016 dated 31.08.2020 were challenged on the premise that the assessment was vitiated inasmuch as the Assessment Authority had completed assessment solely guided by the proposal of the Enforcement Wing Officers. The learned Judge was pleased to set aside and remit the matter back to the Assessing Officer. The relevant portion of the order is extracted hereunder:

> *"5. In view of Circular No.3 dated 18.01.2019 issued by the Commissioner of State Tax, Chennai, the impugned proceedings in all these Writ Petitions, which proceeds on the basis of the proposals/reports of the Enforcement Wing/ISIC, are set aside and consequently, the matters are remanded back to the Assessing Officer. The Assessees are granted liberty to file their objections with all supporting documents, within a period of 30 days from the date of receipt of a copy of this order. On receipt of such objections, the Assessing Officer shall extend due opportunity of personal hearing to the Assessees/Representatives, if necessary through Video Conferencing and endeavor to conclude the assessment proceedings independently and not being influenced by any of the reports or proposals of the Enforcement/ISIC Authorities. Such an exercise shall be completed atleast within a period of 12 weeks from the date of receipt of the objections. In case, if the objections are not received within the date of expiry of 30 days from the date of receipt of a copy of this order, the Assessing Officer shall commence the assessment proceedings, after the expiry of the 30 days indicated above."*

2.2.Thereafter, a notice came to be issued on 19.02.2021 wherein, after extracting the above portions of the orders of this Court, the petitioner was granted an opportunity to file their objection and an opportunity for personal hearing was also extended.

3. It is submitted by the learned counsel for the petitioner that as a matter of fact the petitioner had also approached this Court seeking extension of time in W.M.P.SR.No.20581 of 2021 as they were unable to file their objections within the time stipulated by this Court vide order dated 31.08.2020. After objections were received, the assessment came to be completed even without examining the objections on the premise that the objections were filed after the expiry of the time granted by this Court. The above impugned orders cannot be sustained for more than one reason viz.,

a. Firstly, this Court while disposing of the above writ petitions in the earlier round vide order dated 31.08.2020, had stated that if objections were not received the Assessing Officer shall commence the assessment proceedings. The Assessing Authority had apparently in compliance with the above direction issued the notice wherein, he had also granted opportunity to the petitioner to file their objection. The Assessing Officer cannot pass the impugned refusing to even examine the objections which were filed by the petitioner.

b. Secondly, it is submitted that the petitioner had already filed a application in W.M.P.SR.No.20581 of 2021 before this Court for extension of time to submit their objection in W.P.No.10597 of 2016. It was also referred in the reply of the petitioner dated 13.03.2021 which reads as under:

> *"In this regard we wish to point out that we have already filed an application seeking extension of the time limit granted by the Hon'ble High Court for filing objections in WMP SR. No.20581 of 2021. We expect the application to be taken up for hearing by the Hon'ble High Court in the next one or two weeks."*

4. However, the impugned orders dated 22.03.2021 were passed pursuant to the order in W.P.No.10597 of 2016 dated 31.08.2020. The miscellaneous petition in W.M.P.No.8440 of 2021 in W.P.No.10597 of 2016 came to be heard on 15.04.2021 subsequent to the passing of the impugned orders dated 22.03.2021. This Court was pleased to grant further period of 30 days from 15.04.2021 to file their objections.

5. This Court is of the view that the impugned orders are liable to be set aside inasmuch as the refusal to examine the objection clearly vitiates the entire proceedings. Moreso, in view of the fact that there has been subsequent extension of time by this Court for one of the years in W.M.P.No.8440 of 2021 in W.P.No.10597 of 2016. In the circumstances, this Court is inclined to set aside the impugned orders with a direction to the respondent to pass fresh orders in accordance with law after considering the objections filed by the petitioner within

a period of 4 weeks from the date of receipt of a copy of this order, to which the learned counsel for the respondent did not have serious objections.

6. With the above direction, the writ petitions stands disposed of. Consequently, connected writ miscellaneous petitions are closed. No costs.

27.07.2023

Index: Yes/No
Internet: Yes/No
Speaking / Non speaking order

shk

To:
The Assistant Commissioner (ST),
Tirupur South Circle.

MOHAMMED SHAFFIQ,J.

shk

W.P.Nos.10912, 10916, 10919, 10923 of 2021
and
W.M.P.Nos.11544, 11549, 11553, 11557, 16207, 16209, 16210, 16211 of 2021

27.07.2023