



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.11.2023
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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.Nos.22880, 22882, 22884 & 22887 of 2021

and

W.M.P.Nos.24086, 24088 to 24090 of 2023

Tvl.R.Gold Exchange,
Rep. by its Proprietor Mr.M.M.Rangasamy,
No.924, Ganesh Building,
Cross Cut Road,
Coimbatore – 12.

... Petitioner
in 4WPs

Vs.

The Assistant Commissioner (CT),
Gandhipuram Assessment Circle,
Coimbatore.

... Respondent in 4WPs

Prayer in WP.No.22880 of 2021: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the respondent proceedings in TIN No.33192184136/2010-11 dated 03.09.2021 and quash the same being illegal, invalid, without jurisdiction and violated the principles of natural justice and contrary to the law.

Prayer in WP.No.22882 of 2021: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the respondent proceedings in TIN No.33192184136/2011-12 dated 03.09.2021 and quash the same being illegal, invalid, without



jurisdiction and violated the principles of natural justice and contrary to the law.

Prayer in WP.No.22884 of 2021: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the respondent proceedings in TIN No.33192184136/2012-13 dated 06.09.2021 and quash the same being illegal, invalid, without jurisdiction and violated the principles of natural justice and contrary to the law.

Prayer in WP.No.22887 of 2021: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the respondent proceedings in TIN No.33192184136/2013-14 dated 06.09.2021 and quash the same being illegal, invalid, without jurisdiction and violated the principles of natural justice and contrary to the law.

For Petitioner	: Mr.D.Vijayakumar (in 4WPs)
For Respondent	: Mr.V.Prashanth Kiren Government Advocate (Tax) (in 4WPs)

COMMON ORDER

These writ petitions have been filed challenging the orders dated 03.09.2021 and 06.09.2021 passed by the respondent.

2. Since the issue involved in all these four Writ Petitions is identical in nature and the parties herein are one and the same, these Writ Petitions were heard together and disposed of vide this Common Order.



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3. Mr.D.Vijayakumar, learned counsel appearing for the petitioner would submit that the impugned orders are assailed mainly on the ground of limitation. The learned counsel also contended that notice issued in the year 2014 i.e on 21.10.2014, seeking for petitioner's reply, however, since certain documents, which were seized from the petitioner's business premises at the time of inspection were with the respondent, the petitioner sought for those documents and as the same were not provided, the petitioner approached this Court by way of filing W.P.No.31088 of 2014, and this Court vide order, dated 27.11.2014, directed the respondent to provide copies of the documents, which formed the basis for issuance of such notice to the petitioner so as to enable the petitioner to file appropriate reply. Thereafter, the petitioner has filed a reply to the respondents. However, the respondent sent another notice in the year 2021, requiring further additional informations and thereafter, passed the impugned orders. Therefore, the learned counsel contended that the impugned proceedings are barred by limitation. It is also further contended by the learned counsel though the petitioner filed a detailed reply, the Authority has not bothered to consider any of the points/defence raised/taken by the petitioner in their reply, except, by stating that the objections are not acceptable. Therefore, the learned counsel contended that



the impugned order passed by the respondent is a non-speaking order and liable to be set aside on this score also.

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4. Mr.V.Prashanth Kiren, learned Government Advocate for the respondent would submit that the respondent though has initially issued a notice in the year 2014, since the respondent is in need of certain additional informations/detail in furtherance of the proceedings contained in the said notice, the respondent issued subsequent notices, and therefore, the impugned proceedings are not barred by limitation. However, with regard to aspect of non-consideration of any of the points/query raised by the petitioner in their reply, the learned Government Advocate fairly agreed that the respondent has not considered the reply filed by the petitioner and therefore, submitted that if the Court intends to remit the matter back to the respondent for adjudication on merits with reference to the available documents produced by the petitioner in the form of reply, the respondent would consider the same and appropriate orders would be passed.

5. Heard the learned counsel for the petitioner as well as by the learned Government Advocate appearing on behalf of the respondent.



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6. On perusal of the impugned orders, it is seen that the respondent-Department has made only a vague statement that the objections filed by the petitioner was not acceptable, in what way, the reply/objections made by the petitioner is not acceptable, in what manner, does the respondent is not disagreeable to the points raised by the petitioner, and how come the explanations/objections offered by the petitioner is not satisfactory has not been set out clearly by the respondent and nothing has been discussed in the impugned orders. Further, the respondent, under the pretext of seeking information/details, has incessantly issued notices to the petitioner.

6.1 Therefore, as rightly pointed out by the learned counsel for the petitioner, the respondent failed to consider any of the points/query raised in the reply filed by the petitioner, excepting stating the objections filed by the petitioner is not acceptable and proceeded to confirm the proposals made in the notice without assigning any reasons, whatsoever and passed non-speaking orders. Therefore, this Court is inclined to set aside the impugned orders passed by the respondent dated 03.09.2021 and dated 06.09.2021.



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7. Accordingly, all these Writ Petitions are allowed, the impugned orders are set aside and the matters are remitted back to the respondent for fresh consideration, in which case, the respondent is directed to consider all the replies filed by the petitioner for the show cause notices issued from the year 2014 to 2021 and after affording an opportunity of personal hearing to the petitioner, shall pass fresh orders, which shall be a speaking order touching upon all issues raised by the petitioner in their reply/objections and deal with the matter on merits, which respondent so far has not done and complete the aforesaid exercise within a period of three (3) months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

07.11.2023

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Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order

To

The Assistant Commissioner (CT),
Gandhipuram Assessment Circle,
Coimbatore.



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KRISHNAN RAMASAMY, J.

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