

WP(MD) No.25243 of 2023

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)**

Wednesday, the Eighteenth day of October Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

W.P(MD).Nos.25243 to 25248 of 2023

**M/S.SENTHIL MURUGAN JEWELLERS
REP BY ITS PARTNER PANDURANGAN,
253A, 254, 255, WEST MASI STREET,
MADURAI 625 001**

**... PETITIONER
IN ALL THE PETITIONS**

Vs

**THE ASSISTANT COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE (1) MADURAI,
OFFICE OF ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE(1),
INCOME TAX TARIFF COMPLEX,
KULAMANGALAM ROAD, MEENAMBALPURAM,
MADURAI - 625 002**

**... RESPONDENT
IN ALL THE PETITIONS**

Prayer in WP(MD). 25243/ 2023 :

Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus calling for the records in impugned order in DIN and Order No. ITBA/PNL/F/270A/2023-24/1056510081(1) dated 25.09.2023 for the assessment year 2017-18 on the file of the respondent and quash the same as illegal and against the principles of natural justice and direct the respondent to pass orders in accordance with law after the result of the main writ petition.



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Prayer in WP(MD). 25244/ 2023 :

Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus calling for the records in impugned order in DIN and Order No. ITBA/PNL/F/271AAC (1)/2023-24/1056512517(1) dated 25.09.2023 for the assessment year 2017-18 on the file of the respondent and quash the same as illegal and against the principles of natural justice and direct the respondent to pass orders in accordance with law after the result of the main writ petition.

Prayer in WP(MD). 25245/ 2023 :

Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus, calling for the records in impugned order in DIN and Order No. ITBA/PNL/F/270A/2023-24/1056523561(1) dated 25.09.2023 for the assessment year 2018-19 on the file of the respondent and quash the same as illegal and against the principles of natural justice and direct the respondent to pass orders in accordance with law after the result of the main writ petition.

Prayer in WP(MD). 25246/ 2023 :

Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus, calling for the records in impugned order in DIN and Order No. ITBA/PNL/F/271AAC(1)/2023-24/1056516419(1) dated 25.09.2023 for the assessment year 2018-19 on the file of the respondent and quash the same as illegal and against the principles of natural justice and direct the respondent to pass orders in accordance with law after the result of the main writ petition.

Prayer in WP(MD). 25247/ 2023 :

Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus calling for the records in impugned order in DIN and Order No. ITBA/PNL/F/270A/2023-24/1056523563(1) dated 25.09.2023 for the assessment year 2019-20 on the file of the respondent and quash the same as illegal and against the principles of natural justice and direct the respondent to pass orders in accordance with law after the result of the main writ petition.

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Prayer in WP(MD). 25248/ 2023 :

Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus calling for the records in impugned order in DIN and Order No. ITBA/PNL/F/271AAC(1)/2023-24/1056510085(1) dated 25.09.2023 for the assessment year 2019-20 on the file of the respondent and quash the same as illegal and against the principles of natural justice and direct the respondent to pass orders in accordance with law after the result of the main writ petition.

ORDER : These writ petitions coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.A.THIYAGA RAJAN, Senior Counsel for M/S.S.KARUNAKAR, Advocate for the petitioner in all the petitions and of MR.N.DILIP KUMAR, Standing Counsel on behalf of the Respondent in all the petitions, the court made the following order:-

These Writ Petitions are filed as against the impugned orders passed by the respondent/Income Tax Department imposing penalty on the petitioner under Sections 270A and 271AAC(1) of the Income Tax Act, 1961, for the assessment years 2017-2018, 2018-2019, 2019-2020 and 2020-2021.

2. The learned Senior Counsel, by relying on the order passed by this Court in W.M.P(MD).No.1308 of 2023 in W.P(MD).No.1433 of 2023 dated 25.01.2023, submits that the order of assessment made against the petitioner for the year 2021-2022 was challenged in W.P(MD).No.1433 of 2023 and this Court has also granted an order of

interim stay. Subsequently, a similar penalty was imposed against the petitioner for



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the assessment years 2017-2018, 2018-2019, 2019-2020 and 2020-2021 and that was also challenged by the petitioner in W.P.(MD).Nos.8706 to 8709 of 2023 and the same was rejected by this Court and as against the orders of the writ Court, the writ appeals have been preferred and the same are pending before this Court. The learned Senior counsel has also relied on the order passed by the Principal Bench of this Court in W.A(MD).Nos.1040 to 1045 of 2023 dated 04.05.2023, which was filed by a similarly situated person, wherein, an undertaking was given by the learned Additional Solicitor General that the Department would not proceed with the assessment. Therefore, the learned Senior Counsel submits that whether reliance of the Income Tax Department from the accounts which were seized from Mohanlal Jewellers is liable for cross-examination or not?, is yet to be decided and therefore, the petitioner is also entitled for an interim order.

3. Mr.N.Dilip Kumar, learned Standing Counsel takes notice for the respondent Income Tax Department and submits that the petitioner has purchased the gold from one Mohanlal Jewellers and the said Mohanlal Jewellers have maintained two accounts and on conducting search, the respondent has recovered hard disk which would disclose that the said Mohanlal Jewellers have supplied more gold bars to the petitioner than what is accounted for. Therefore, the respondent has imposed penalty



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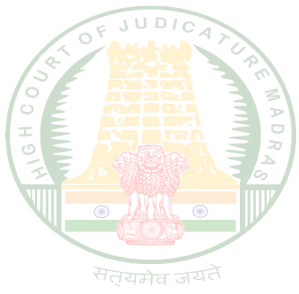
on the petitioner based on the materials collected from Mohanlal Jewellers and the assessment made for previous years (i.e.,) 2017-2018, 2018-2019, 2019-2020 and 2020-2021 has been accepted by this Court in W.P(MD).Nos.8707 to 8709 of 2023 and the said writ petitions were dismissed and the writ appeals have been preferred by the petitioner.

4. This Court considered the rival submissions made by both sides.

5. For the assessment years 2017-2018 to 2020-2021, the petitioner has already preferred writ appeals and the same are pending before this Court. For the assessment year 2021-2022, this Court has granted an order of interim stay in W.M.P (MD).No.1308 of 2023 in W.P(MD).No.1433 of 2023. A similarly placed person, who is facing similar proceeding on account of recovery made from Mohanlal Jewellers, has preferred writ appeals in W.A.Nos.1040 to 1045 of 2023, wherein, an undertaking was given by the learned Additional Solicitor General before the Principal Bench of this Court that the Department will not proceed with the assessment.

6. Considering the above facts, there shall be an order of interim stay till

06.11.2023.



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7. Registry is directed to list these matters along with W.P(MD).Nos.1433 of 2023 and 17046 to 17048 of 2023 on 06.11.2023 for final disposal.

sd/-
18/10/2023

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/11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

ssb
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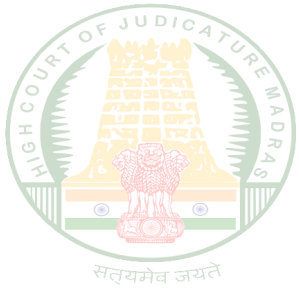
THE ASSISTANT COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE (1) MADURAI,
OFFICE OF ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE(1),
INCOME TAX TARIFF COMPLEX,
KULAMANGALAM ROAD, MEENAMBALPURAM,
MADURAI - 625 002

COPY TO

THE SECTION OFFICER
WRIT SECTION
MADURAI BENCH OF MADRAS HIGH COURT
MADURAI.

+1 CC to M/s.S.KARUNAKAR, Advocate (SR-15434[I] dated 19/10/2023)

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-15530[I] dated 20/10/2023)



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ORDER
IN
W.P(MD).Nos.25243 to 25248 of 2023
Date :18/10/2023

SSA/VRS/01.11.2023/7P/5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023