IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.8856, 8857, 8858, 8859, 8860, 8861, 8862 and 8863 of 2015
and
M.P.Nos.1, 1, 1, 1, 1, 1, 1 and 1 of 2015

Peeyemmar Timber and Plywoods,
represented by its Proprietor
P.M.R.Shahul Hameed
Old No.8 (New No.19),
Yahaya Ali 2nd Street,
G.N.Chetty Road,
Chennai - 600 006. ... Petitioner in all W.Ps.

vs.

The Assistant Commissioner (CT),
T.Nagar Assessment Circle,
Chennai - 600 028. ... Respondent in all W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the impugned proceedings of the respondent in TIN/33061560449/2012-13, TIN/33061560449/2013-14, TIN/33061560449/ 2009-10, TIN/33061560449/2008-09, TIN/33061560449/2006-07, TIN/ 33061560449/2007-08, TIN/33061560449/2011-12 & TIN/33061560449/2010-11 dated 19.02.2015 and quash the same as illegal and violative of principles of natural justice.

For Petitioner : Mr.K.Sathivel

For Respondent : Mr.A.N.R.Jayapratap
Additional Government Pleader (Taxes)

C O M M O N O R D E R

Heard learned counsel for petitioner and learned Additional Government Pleader (Taxes) for respondent. By consent, the main writ petitions itself are taken up for final disposal.

2. The petitioner has come forward with these writ petitions to quash the impugned orders of the respondent in TIN/33061560449/2012-13, TIN/33061560449/2013-14, TIN/33061560449/2009-10, TIN/33061560449/2008-09, TIN/33061560449/2006-07, TIN/33061560449/2007-08, TIN/33061560449/ 2011-12 & TIN/33061560449/2010-11 dated 19.02.2015.

3. Petitioner is a registered dealer on the file of the respondent under the provisions of Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as 'Act 2006'). Petitioner is engaged in the business of selling timber and plywood. The Enforcement Wing Officers of the respondent conducted a surprise inspection in the petitioner's premise between 03.04.2014 and 11.04.2014 and took away all the records including bills pertaining to the years commencing from 2006-07 to 2013-14. Thereafter, the respondent issued separate notices dated 22.01.2015 in respect of each assessment year proposing to levy tax u/s.3(2) of the Act 2006 with penalty u/s.27(3) of the Act 2006 and directed the petitioner to submit their objections, if any, within 15 days. As the records pertaining to the relevant years were in the custody of the Enforcement Wing of the respondent and the concerned person, who is in charge of such records, was on leave, the petitioner had addressed a letter dated 09.02.2015 to the respondent requesting to grant two months time to file their objections. However, the respondent without granting further time and without affording an opportunity of personal hearing to the petitioner, has passed the impugned orders. Hence, the present writ petitions have been filed.

4. Learned counsel for petitioner submitted that the petitioner has agreed to pay 5% of the tax amount (in each case) as determined in the impugned orders without prejudice to their rights and the petitioner would cooperate to enable the assessing officer to complete the proceedings afresh.

5. Taking note of the facts and circumstances of the case, this Court directs the respondent to accept 5% of the amount (in each case) as determined in the impugned orders, which the petitioner has agreed to pay the same, which can be adjusted from the refund and and give one more opportunity to the petitioner to put forth their objections and thereafter, the respondent shall pass appropriate orders on merits and in accordance with law.

6. The petitioner is directed to appear on 30.04.2015 before the authority, on which date, the petitioner is entitled to make their verbal and written submissions, if any. In case the petitioner fails to avail this opportunity on 30.04.2015, the authority is empowered to pass orders afresh on merits and in accordance with law based on

the available records. In case, an adverse order is passed on the failure of the petitioner to avail the opportunity, the petitioner undertakes that they will approach the appellate authority challenging that order by complying with pre-deposit and shall not seek the indulgence of this Court on this score. The said submission of the learned counsel for the petitioner is recorded.

These writ petitions are disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm

To

The Assistant Commissioner (CT),
T.Nagar Assessment Circle,
Chennai - 600 028.

+8cc's to Mr.K.Sakthivel, Advocate, S.R.No.17710, 17709, 17708, 17707, 17706, 17705, 17704, 17703
+1cc to the Special Government Pleader(Taxes), S.R.No.17402

W.P.No.8856, 8857, 8858, 8859, 8860, 8861, 8862 and 8863 of 2015

SKV(CO)
CA(09/04/2015)