IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.29428 to 29431 of 2016

M/s.Sri Ganesh Timbers,
Rep. By its Proprietor-K.Karuppusamy,
No.16/22, SPN Street,
Mill Road,
Coimbatore - 641 001.
Coimbatore District. ... Petitioner
in all the Writ Petitions

Vs.

The Commercial Tax Officer,
Oppanakkara Street Circle,
Coimbatore,
Coimbatore District. ... Respondent
in all the Writ Petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of Constitution of India praying to issue Writ of certiorari to call for the records on the file of the respondent in its impugned proceedings made in Assessment Nos.33081860556/2009-10, 33081860556/2011-12, 33081860556/2013-14, 33081860556/2014-15, dated 24.05.2016, and quash the same.

For Petitioner : Ms.R.Hemalatha
For Respondent : Mr.S.Kanmani Annamalai, AGP

COMMON ORDER

Heard Ms.R.Hemalatha, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the respondent, and with their consent, the writ petitions are taken up for disposal.

2. The petitioner is a dealer in Timber & Plywood and an assessee on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TN VAT Act). In these writ petitions, the petitioner has challenged the assessments orders passed for the years 2009-10, 2011-12, 2013-14 and 2014-15.

3. The only ground on which the impugned order is questioned by contending that none of the documents produced by the petitioner was considered by the Assessing Officer and the assessment has been completed by holding that the petitioner did not produce these documents before the Inspecting Officer who inspected the place of business on 27.04.2015. The manner in which the assessment has been completed is erroneous. Based upon the report given by the Enforcement Wing, the respondent has issued pre-assessment notice. For the said notice, the petitioner has filed their objections. Therefore, the Assessing Officer, being an statutory authority, is bound to consider the objections by independently applying his mind and the respondent could not have rejected the petitioner's objections by stating that they have produced the documents before the Inspecting Officer. Therefore, on the said short ground alone, the impugned assessments orders are liable to be set aside.

4. In respect of the assessment year 2014-15, learned counsel for the petitioner submitted that the petitioner will pay the tax as demanded for the stock difference. The said submission is placed on record.

5. Accordingly, the writ petitions are allowed and the impugned assessments orders are quashed and the matter is remitted back to the respondent for fresh consideration, who shall afford an opportunity of personal hearing to the petitioner and redo the assessment after considering the documents and independently applying his mind. No Costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To
The Commercial Tax Officer,
Oppanakkara Street Circle,
Coimbatore,
Coimbatore District.
+1 cc to special government pleader (T) sr 48508
+5 ccs to Mrs.R.Hemalatha Advocate sr 48605

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