IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2016

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.30215 and 30216 of 2016
and W.M.P.Nos.26202 to 26205 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 both Writ Petitions

Vs.

The Commercial Tax Officer,
Oppanakkara Street Circle,
Coimbatore,
Coimbatore District. ... Respondent in both 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.33081860556/2010-11 and 33081860556/2012-13, both dated 24.05.2016, and quash the same.

For Petitioner in both W.Ps. : Ms.R.Hemalatha

For Respondent in both W.Ps : Mr.S.Kanmani Annamalai, Additional Government Pleader

COMMON ORDER

Heard Ms.R.Hemalatha, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the respondent, in each of the above petitions. By consent of the learned counsel for both sides, the writ petitions are taken up for disposal at the admission stage itself.

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 (the TNVAT Act). In

these writ petitions, the petitioner has challenged the assessments orders passed for the years 2010-11, 2012-13.

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 notices. For the said notices, 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. Accordingly, the writ petitions are allowed and the impugned assessments' orders are quashed and the matters are 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, by independently applying his mind. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

srk

To

The Commercial Tax Officer,
Oppanakkara Street Circle,
Coimbatore, Coimbatore District.

+2cc's to Mr.R.Hemalatha, Advocate, S.R.No.49362
+1cc to the Special Government Pleader(T), S.R.No.49497

W.P.Nos.30215 and 30216 of 2016
& W.M.P.Nos.26208 and 26209 of 2016

SKV(CO)
CA(15/09/2016)