IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 01.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.30491 of 2016 &

W.M.P.No.26428 of 2016

Balaji Wood Industries,
Represented by its Partner,
Rajaram K.Patel,
326/2B Mettupalayam Road,
Thudiyalur,
Coimbatore-34. .. Petitioner

Versus

The Assistant Commissioner,
Commercial Taxes,
Thudiyalur Circle,
Coimbatore. .. Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records on the file of the respondent herein in TIN: 3396 2024 487/2013-14, dated 25.07.2016 and quash the same.

For Petitioner : Mr.N.Inbarajan
For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

Heard Mr.N.Inbarajan, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, accepting notice on behalf of respondent. With the consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

2. The petitioner-Company, which is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax, 2006 (hereinafter referred as "TNVAT Act"), has filed this Writ Petition, challenging the order of Assessment dated 25.07.2016 for the year 2013-14.

3. The petitioner was issued with a pre-revision notice dated 19.01.2015 stating that they have failed to declare the import purchase during the relevant year. The notice appears to have been issued based on a report from the Customs Department, however, a copy of which has not been served on the petitioner. The petitioner, on receipt of the notice, sent a representation on 04.02.2015 requesting for copies of the documents, based on which, the revision notice dated 19.01.2015 was issued. This representation has shown to have been received by the Office of the respondent, as could be seen from the acknowledgment in the Letter Delivery Book. Once again, for the very same turnover alleging that the petitioner failed to declare the import purchase, another notice issued on 06.06.2016. In the said notice, the earlier notice dated 19.01.2015 was referred to, but the petitioner's reply has not been referred. Therefore, once again the petitioner submitted a representation on 20.07.2016 to the respondent, requesting for documents. This representation was received by the respondent, as could be seen from the Letter Delivery Book and the signature of the respondent tallies with that of the signature contained in the impugned assessment order. However, the respondent without acceding to the request made by the petitioner to furnish documents, has completed the assessment ex-parte, alleging as if the petitioner has not filed objections. Therefore, the impugned order is in clear violation of principles of natural justice.

4. Accordingly, the Writ Petition is allowed and the impugned order is quashed and the matter is remanded to the respondent to furnish the documents sought for by the petitioner in the representation dated 20.07.2016, after which, the petitioner should be given 15 days time to file objections and after receipt of the objections, an opportunity of personal hearing should be granted to the petitioner and Assessment shall be re-done in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

r n s

To

The Assistant Commissioner,
Commercial Taxes,
Thudiyalur Circle,
Coimbatore.

+1 CC to Special (Govt., Pleader (Taxes) Sr.No.49625
+1 CC to M/s. N. Inbarajan, Sr.NO.49570

W.P.No.30491 of 2016 &
W.M.P.No.26428 of 2016

NR (CO)
MD : 16/09/2016