IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 203 (3 cases) CWP-20881-2016

Decided on : 09.12.2016

M/s JMD Plytech, Jagadhri ..... Petitioner

VERSUS

Joint Commissioner of Income Tax,
Yamuna Nagar and another ..... Respondents

2. CWP-20900-2016

M/s Himalyan Ply Boards, Jagadhri ..... Petitioner

VERSUS

Joint Commissioner of Income Tax,
Yamuna Nagar and another ..... Respondents

3. CWP-20945-2016

M/s Assam Wood & Allied Products, Jagadhri ..... Petitioner

VERSUS

Joint Commissioner of Income Tax,
Yamuna Nagar and another ..... Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.N.P.S.Sahni, Advocate, for the petitioner(s).

Mr.Yogesh Putney, Advocate, for the respondents.

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S.J.VAZIFDAR, CHIEF JUSTICE (ORAL)

The petitioners in each of these petitions have challenged the respondents' refusal to forward the note books impounded by them during the course of a survey under Section 133A of the Income Tax Act, 1961 to a

Forensic Science Laboratory (FSL) for the purpose of giving an opinion on two issues namely whether all the entries in each of the note books were made on the same day and not on a day to day basis and whether the entries in each of the note books were made on the same day on which the statement(s) of each of the petitioners were recorded during the course of the said survey.

2. The petitioners' case is that they were compelled to make the entries in each of the note books by the authorities as well as to prepare and sign the said statements on the same day. The two questions sought to be referred to the FSL are certainly relevant although they may well not be conclusive of the petitioners' contentions. For instance, as contended by the respondents, they could have been written at the same time but earlier and without any interference by the authorities. In other words, the entries in the note books could be a consolidated record prepared simultaneously of the loose sheets maintained earlier. It is neither necessary nor proper for us to express any view in this regard. The ends of justice require that the petitioners ought to have an opportunity of establishing this fact whatever be the inference that may be drawn on the basis of the report.

3. The learned counsel appearing on behalf of the petitioners makes a statement on behalf of each of the petitioners that they are willing to have any Government/Government-approved FSL examine this evidence and to submit a report on the two issues mentioned above. He further states that they are willing to leave it to the department itself to forward the same to any Government/Government-approved FSL.

4. In these circumstances, each of the petitions is disposed of by the following directions: -

(i) The note books and the corresponding statement(s) in each of the cases shall be forwarded by the respondents to any Government/Government-approved FSL for the purpose of determining whether the entries in each of the note books were made at the same time or whether they were made at different times and whether the entries in each of the note books were made on the same day as the corresponding statement(s) prepared and signed by the respective petitioners during the course of the survey.

The FSL shall forward the report to the respondents who shall furnish a copy thereof to the petitioners. Needless to add that the parties are always at liberty to either accept or challenge the report(s) or any part or aspect thereof.

(ii) The framing of the assessment shall remain stayed upto the receipt of the FSL report by the respondents and for a period of 10 weeks thereafter. However, immediately upon the receipt of the report by the petitioners and the respondents the assessment may continue.

(iii) The costs of the FSL shall be paid by the petitioners in each of the cases as demanded by the FSL or the respondents.

5. The learned counsel for the petitioners has no objection to the above order. To leave no room for doubt, he states that the petitioners will not in any event raise any contention on the question of limitation till the expiry of the aforesaid period of 10 weeks. He further states that the issue of limitation will not be raised by any of the petitioners even if the

assessment order is made after the aforesaid period of 10 weeks.

A photocopy of this order be placed on the files of connected cases.

[S.J. VAZIFDAR]
CHIEF JUSTICE

09.12.2016
shamsher

[DEEPAK SIBAL]
JUDGE

Whether reasoned/speaking : Yes / No
Whether reportable : Yes / No