IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2017

CORAM :

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

W.P.No.5047 of 2017
W.M.P.Nos.5336 & 5337 of 2017

Sri Kumar Timbers and Plywoods
Rep. by its Proprietrix,
K.Prema,
No.4/193, East Coast Road,
Palavakkam, Chennai-41. .. Petitioner

vs.

The Commercial Tax Officer,
Sholinganallur Assessment Circle,
No.141, Burma Colony,
First Main Road,
Perungudi, Chennai 600 096. .. Respondent

Prayer: The writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records comprised in impugned order in TIN/33970924356/2008-2009 dated 25.05.2015 on the file of the respondent, quash the same and consequently direct the respondent to give opportunity to the petitioner before passing the assessment order.

For Petitioner : Ms.Cynduja Crishnan

For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Ms.Cynduja Crishnan, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate, appearing for the respondent.

2. Though, more than four occasions, the matter was adjourned at the request of the respondent for filing counter affidavit, till today, counter affidavit has not been filed and the files have not been handed over to the learned Government Advocate. Therefore, this Court is left with no other option except to dispose of the matter on the available materials.

3. In short, the point which arises for consideration in the instance case is whether the respondent was justified in completing the revised assessment by the impugned order dated 25.05.2015 without reference to the petitioner's objection.

4. The petitioner's case is that they submitted their objection to the assessment and delivered the same in the office of the respondent on 28.05.2015 and it has been acknowledged in the letter delivery book. However, the respondent without reference to the said representation/objection has completed the assessment.

5. It appears that, the Assessing Officer spoke to the learned Government Advocate over phone and informed him that no representation has been received. If such is the stand taken by the Assessing Officer, then, he has to lodge a complaint before a Police Officer and enquiry has to be conducted as to who put the signature in the Letter Delivery Book.

6. It is high time that the Commercial Taxes Department, has to abandon the practice of giving Acknowledgment in the letter delivery book. When the respondent has switched over to E-filing, it is hard to believe why the archaic practice of issuing Acknowledgment in the letter delivery book is adopted.

7. Therefore, this Court is constrained to accept the stand taken by the petitioner that their representation/objection dated 28.05.2015 was received in the office of the respondent and having not considered the same, the impugned order came to be passed which requires to be set aside as the same is in violation of the principles of natural justice.

8. Accordingly, the writ petition is allowed and the impugned order is set aside and the matter is remanded to the

respondent for fresh disposal, who shall afford an opportunity of personal hearing to the petitioner and re-do the assessment in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

tsi/klt

To

The Commercial Tax Officer,
Sholinganallur Assessment Circle,
No.141, Burma Colony,
First Main Road,
Perungudi, Chennai 600 096.

+1cc to the Special Government Pleader (Taxes),S.R.No.46810
+1cc to M/s.K.Magesh, Advocate, S.R.No.46934

W.P.No.5047 of 2017

AR(CS V)
CU(/21/07/2017)