IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.12.2017

CORAM

THE HON'BLE MR.JUSTICE T.SIVAGNANAM

W.P.Nos.33479 to 33483 of 2017
and W.M.P.Nos.36985 to 36994 of 2017

M/s.Ohm Shree Hardward & Plywood
Rep.by its Partner - Chandulal K.Patel
No.205/A1, Plot No.6 & 7
Arani Road, Vellore,
Vellore District. .. Petitioner in all W.Ps.

..Vs..

The Commercial Tax Officer
Vellore (Rural) Circle,
Vellore, Vellore District. .. Respondent in all W.Ps.

Prayer in W.P.No.33479 of 2017: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the respondent in his impugned proceedings made in TIN:33784202527/2011-12 dated 15.05.2017 quash the same as illegal and contrary to the scheme of the Act.

Prayer in W.P.No.33480 of 2017: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the respondent in his impugned proceedings made in TIN:33784202527/2012-13 dated 15.05.2017 quash the same as illegal and contrary to the scheme of the Act.

Prayer in W.P.No.33481 of 2017: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the respondent in his impugned proceedings made in TIN:33784202527/2013-14 dated 27.05.2017 quash the same as illegal and contrary to the scheme of the Act.

Prayer in W.P.No.33482 of 2017: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the respondent in his impugned proceedings made in

TIN:33784202527/2014-15 dated 27.05.2017 quash the same as illegal and contrary to the scheme of the Act.

Prayer in W.P.No.33483 of 2017: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, ccalling for the records on the file of the respondent in his impugned proceedings made in TIN:33784202527/2015-16 dated 02.06.2017 quash the same as illegal and contrary to the scheme of the Act.

For Petitioner in all W.Ps. : M/s.R.Hemalatha
For Respondent in all W.Ps. : Mr.S.Kanmani Annamalai
Additional Government Pleader

COMMON ORDER

Heard M/s.R.Hemalatha, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the respondent. With the consent on either side, the writ petitions are taken up for disposal.

2.The petitioner is a registered dealer on the file of the respondent under the provision of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act). In these writ petitions, the petitioner has challenged the assessment orders for the years 2011-2012 to 2015-2016. Admittedly, the petitioner did not filed their objections to the revision notice dated 03.03.2017. Therefore, the petitioner cannot claim there has been violation of principles of natural justice. It is a case where the petitioner failed to avail the opportunity granted. That apart, the petitioner cannot prefer an appeal against the impugned assessment orders as on date as the period of limitation has expired. Faced to this situation, the learned counsel for the petitioner would submit that one indulgence may be granted to the petitioner to go before the Assessing Officer subject to any condition that may be imposed by this Court.

3.This Submission is made on the ground that the dealer is a small time dealer and for few of the assessment years, the revision of assessment is based on the details gathered from the departmental website and unless and until the petitioner is furnished with full details, they will not be in a position to file an effective objection.

4.Considering the above submission and also taking note of the fact that though the Assessing Officer has passed the impugned assessment orders during May/June 2017, till date the respondent has not been able to recover even a portion of the tax quantified in the impugned assessment orders. Therefore, this Court is of the view that while protecting the interest of revenue, liberty can be granted to the petitioner to go before the Assessing Officer.

5.Accordingly, the writ petitions are disposed of by directing the petitioner to pay 25% of the disputed tax for each of the assessment years within a period of 15 days from the date of receipt of copy of this order. If such payment is made, the petitioner is remitted to treat impugned orders as show cause notices and submit their objections within a period of 15 days thereafter. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to furnish documents and details which the petitioner may request for and the re-do the assessment in accordance with law. It is needless to add that the benefit of this order will not enure to the petitioner if the petitioner fails to comply with the condition of payment of 25% of the disputed tax within the time stipulated. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Asst.Registrar (CS III )

/true copy/

Sub Asst. Registrar

dna/cse

To

The Commercial Tax Officer
Vellore (Rural) Circle,
Vellore, Vellore District.

+ 5 cc to M/s.R.Hemalatha Advocate,SR.91782
+ 1 cc to The Special Govt.Pleader, SR.91913

W.P.Nos.33479 to 33483 of 2017
and
W.M.P.Nos.36985 to 36994 of 2017

rsi(co)
nr 30/01/2018