IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2018

CORAM

THE HONOURABLE MR. JUSTICE M.DURAISWAMY

W.P.No.6659 of 2018
and W.M.P.No.8253 of 2018

M/s.Unique Plywoods,
rep by its Proprietor Zainul Abid,
167 & 168, Trichy Road,
Gandhinagar, Otterpalayam (Via),
Coimbatore District. .. Petitioner

Vs.

The State Tax Officer,
Palladam Assessment Circle,
Palladam, Coimbatore District. .. Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus to call for the records of the respondent in his proceedings in TIN:33396248326/2016-17 dated 19.02.2018 and quash the same as illegal and direct the respondent to consider the Form WW Audit Report filed by the petitioner for the year 2016-17 on 30.12.2017 and to complete the assessment in accordance with law.

For Petitioner : Mr.S.Ramanathan

For Respondent : Mr.M.Hariharan
Additional Government Pleader (Tax)

O R D E R

By consent, the main Writ Petition is taken up for disposal at the admission stage itself.

2.The petitioner has filed the above Writ Petition to issue a Writ of certiorarified mandamus to call for the records of the respondent in his proceedings dated 19.02.2018 for the assessment year 2016-17 and to quash the same and to direct the respondent to consider the Form WW Audit Report filed by the petitioner for the year 2016-17 on 30.12.2017 and to complete the assessment in accordance with law.

3.It is the case of the petitioner that the respondent issued notice dated 23.11.2017 stating that the petitioner's place of business was inspected on 27.05.2016 and stock difference was worked out on the purchases from 2014-15 upto 27.05.2016. The respondent has proposed to add equal time tax of Rs.4,79,500/-. The petitioner filed their objections dated 14.12.2017 stating that the method adopted for arriving at the stock difference was incorrect, as the assessments for the year 2014-15 and 2015-16 were completed by accepting the closing stock as on 31.03.2015 and 31.03.2016. The petitioner undertook to file Form-WW Audit Report on or before 31.12.2017 and requested him to complete the assessment based on the Form-WW Audit Report. The petitioner filed the Audit Report on 30.12.2017. Thereafter, the respondent issued a notice dated 29.01.2018 proposing to levy penalty. The petitioner filed their reply dated 15.02.2018 requesting him to consider the reply dated 14.12.2017 and requested the respondent to grant personal hearing. The respondent, without considering the objections and without dealing with the objections, has simply confirmed the proposal by stating that the objections filed are vague and not based on material evidence. The respondent has not considered the Form-WW Audit Report filed by the petitioner and has not passed the order for the whole year and has passed the order for part of the year. Further, the respondent has not granted personal hearing, which is violative of principles of natural justice.

4.Mr.M.Hariharan, learned Additional Government Pleader (Tax) taking notice for the respondent submitted that the petitioner may be directed to submit Form-WW with their objections before the respondent and on receipt of Form-WW, the respondent may be directed to pass fresh orders.

5.Having regard to the submissions made by the learned counsel on either side, the impugned order dated 19.02.2018 is set aside and the matter is remitted back to the respondent for passing of appropriate orders, afresh. The petitioner is permitted to produce Form-WW before the respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondent shall consider the same and pass fresh orders, on merits and in accordance with law, after affording due opportunity of personal hearing to the petitioner.

6.With these observations, the Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : Yes/No 22.03.2018
Internet : Yes
Speaking Order/Non-speaking order
va

To

The State Tax Officer,
Palladam Assessment Circle,
Palladam, Coimbatore District.

M.DURAISWAMY, J.

va

W.P.No.6659 of 2018
and W.M.P.No.8253 of 2018

22.03.2018