IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2020

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 6546 of 2014
and
W.M.P. Nos. 1 and 2 of 2014

M/s. Victory Timber & Plywoods,
Represented by APM, Mammootty,
Partner,
172, Sydenhams Road, Periamet,
Chennai – 600 003. ... Petitioner

-vs-

The Assistant Commissioner (CT) (Main),
Vepery Assessment Circle,
5, Ritherdon Avenue,
Chennai – 600 007. ... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the files of the Respondent in TIN: 33400523720/2012-13 dated 30.12.2013 received on 03.01.2014, and quash the same as being violative of principles of natural justice and hence invalid and illegal.

For Petitioner	:	Mr. V.Srikanth
For Respondent	:	Mrs. G.Dhana Madhri Government Advocate

O R D E R
(through video conference)

Heard Mr. V.Srikanth, Learned Counsel for the Petitioner and Mrs. G.Dhana Madhri, Learned Government Advocate appearing for the Respondent and perused the materials placed on record and apart from the pleadings of the parties.

2. It is apparent from the materials placed on record that a deemed assessment was made in respect of the Petitioner for the year 2012-2013 under the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the 'TNVAT Act' for short). Subsequently, the officials of the Enforcement Wing had conducted VAT audit of the accounts of the Petitioner on 25.06.2012 and Notice dated 30.08.2013 was issued requiring the Petitioner to submit objections for the proposal to enhance the liability for that year under the TNVAT Act.

3. According to the Petitioner, replies dated 07.09.2013 and 23.09.2013 had been submitted by the Petitioner by speed post for which proof of postal registration has been produced. However, the Respondent by Order No. TIN/3340 0523720/2012-13 dated 30.12.2013 has proceeded to enhance the tax

liability on the erroneous premise as if the Petitioner had not filed any objections for the proposal made in the notice sent by the Respondent. The Writ Petition has been filed challenging the said order mainly on the ground that the replies sent by the Petitioner have not been taken into account.

4. The receipt of the replies dated 07.09.2013 and 17.09.2013 sent by the Petitioner in response to the notice dated 30.08.2013 issued by the Respondent has not been rebutted. As such, the aforesaid submissions made by the Petitioner deserve acceptance and the impugned order entailing adverse civil consequences to the petitioner in violation of the Principles of natural justice and the statutory requirements cannot be sustained, it is quashed and the matter has to be decided afresh by the Respondent.

5. In order to expedite the proceedings, Learned Counsel appearing for the Petitioner as well as the Respondent, on instructions from the respective parties, agree for conducting the enquiry at 11.00 a.m. on 26.11.2020 before the Respondent to provide opportunity of personal hearing to the Petitioner or its authorized representative, and the said submissions made are placed on record.

6. It is incumbent upon the Respondent, after affording full opportunity of personal hearing to the Petitioner, to deal with each of the contentions raised by the Petitioner and pass reasoned orders on merits and in accordance with law following the prescribed procedure in consonance with the principles of natural justice and communicate the decision taken to the Petitioner under written acknowledgment.

7. The Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

19.11.2020
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Index: Yes/No

Note: Issue order copy by 23.11.2020.

To

The Assistant Commissioner (CT) (Main),
Vepery Assessment Circle,
5, Ritherdon Avenue,
Chennai – 600 007.

Copy to

M/s. Victory Timber & Plywoods,
Represented by APM, Mammootty,
Partner,
172, Sydenhams Road, Periamet,
Chennai – 600 003.

P.D. AUDIKESAVALU, J.

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