

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE V. CHITAMBARESH

FRIDAY, THE 30TH DAY OF AUGUST 2013/8TH BHADRA, 1935

WP(C).No. 21514 of 2013 (L)

PETITIONER(S):

M/S. UNITED TIMBER CORPORATION
XII/404, PETTA, MUVATTUPUZHA 686 661
ERNAKULAM DISTRICT, REPRESENTED BY
MANAGING PARTNER, MUHAMMED K. NOUSHAD

BY ADV. SRI. TOMSON T. EMMANUEL

RESPONDENT(S):

1. COMMERCIAL TAX OFFICER
COMMERCIAL TAXES,
MUVATTUPUZHA.
2. COMMISSIONER OF COMMERCIAL TAXES
TAX TOWER, KARAMANA P.O.
THIRUVANANTHAPURAM 695 001.

BY GOVERNMENT PLEADER SRI. MANOJ P. KUNJACHAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30-08-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT P1 : TRUE COPY OF THE ANNUAL E-RETURN DATED 02.05.2012 SUBMITTED BEFORE THE 1ST RESPONDENT.
- EXHIBIT P2 : TRUE COPY OF BILL OF ENTRY NO. 3781191 DATED 14.06.2011 ISSUED TO THE PETITIONER BY CUSTOMS AUTHORITIES FOR IMPORT OF PVC BOARD (HSN CODE NO. 39211390) FROM CHINA
- EXHIBIT P2(a) : TRUE COPY OF DELIVERY NOTE NO. CTVAG-B NO. 074200 DATED 20.06.2011 RAISED BY THE PETITIONER FOR TRNASPORT OF GOODS AS PER EXT.P2.
- EXHIBIT P3 : TRUE COPY OF BILL OF ENTRY NO. 4586314 DATED 07.09.2011 ISSUED TO THE PETITIONER BY CUSTOMS AUTHORITIES FOR THE IMPORT OF PVC BOARD(HSN CODE NO. 39211390) FROM CHINA.
- EXHIBIT P3(a) : TRUE COPY OF DELIVERY NOTE NO. CTVAG-C NO. 0572185 DATED 17.09.2011 RAISED BY THE PETITIONER FOR PARTIAL TRANSPORT OF GOODS AS PER EXT.P3.
- EXHIBIT 3(b) : TRUE COPY OF DELIVERY NOTE NO. CTVAG-C NO. 0572184 DATED 14.09.2011 RAISED BY THE PETITIONER FOR TRANSPORT OF BALANCE QUANTITY OF GOODS AS PER EXT.P3.
- EXHIBIT P4 : TRUE COPY OF BILL OF ENTRY NO. 5443783 DATED 12.11.2011 ISSUED TO THE PETITIONER BY CUSTOMS AUTHORITIES FOR THEIMPORT OF PVC BOARD (HSN CODE NO. 39211390) FROM CHINA
- EXHIBIT P4(a) : TRUE COPY OF DELIVERY NOTE NO. CTVAG-D NO. 0242883 DATED 28.12.2011 RAISED BY THE PETITIONER FOR PARTIAL TRANSPORT OF GOODS AS PER EXT.P4.
- EXHIBIT P4(b) : TRUE COPY OF DELIVERY NOTE NO. CTVAG-D NO. 0242880 DATED 26.12.2011 RAISED BY THE PETITIONER FOR TRANSPORT OF BALANCE QUANTITY OF GOODS AS PER EXT.P4.
- EXHIBIT P5 : TRUE COPY OF NOTICE DATED 01.07.2013 ISSUED U/S. 25(1) OF THE KERALA VALUE ADDED TAXACT FOR THE YEAR 2011-12, BY THE 1ST RESPONDENT TO THE PETITIONER
- EXHIBIT P6 : TRUE COPY OF REPLY DATED 20.07.2013 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT AGAINST EXT.P5 NOTICE.
- EXHIBIT P6(a) : TRUE COPY OF CLARIFICATION NO. C3 15696/07 DATED 07.05.2007 ISSUED BY THE 3RD RESPONDENT.
- EXHIBIT P6(b) : TRUE COPY OF CLARIFICATION NO. C3 17022/09/CT DATED 24.03.2010 ISSUED BY 3RD RESPONDENT, AS TO RATE OF TAX OF ITEM HAVING HSN CODE 3920, CONFIRMING EXT.P6(a).
- EXHIBIT P7 : TRUE COPY OF NOTICE DATED 05.08.2013 ISSUED BY THE 1STG RESPONDENT TO THE PETITIONER.
- EXHIBIT P7(a) : TRUE COPY OF THE LETTER DATED 17.08.2013 ISSUED BY PETITIONER BEFORE THE 1ST RESPONDENT AGAINST EXT.P7 NOTICE.
- EXHIBIT P7(b) : TRUE COPY OF NOTICE DATED 17.08.2013 ISSUED U/S. 25(1) OF THE KERALA VALUE ADDED TAXACT FOR THE YEAR 2011-12 BY THE 1ST RESPONDENT TO THE PETITIONER.

RESPONDENT(S) EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

WP(C) NO. 21514 OF 2013

Dated this the 30th day of August, 2013

JUDGMENT

The petitioner has filed Ext.P6 objection to Ext.P5 pre assessment notice. The petitioner relies on Exts.P6 (a) and P6(b) orders of clarification issued under Section 94 of the Kerala Value Added Tax Act. The petitioner is apprehensive that those clarifications issued by the second respondent would not be adverted to by the first respondent.

2. I direct the first respondent to advert to Exts. P6(a) and P6(b) orders of clarification at the time of considering Ext.P6 objection to Ext.P5 notice. The petitioner shall also be heard and the judicial pronouncements relied on by him shall be considered by the first respondent in the exercise. The petitioner shall produce a copy of the Writ Petition with the judgment before the first respondent for compliance.

The Writ Petition is disposed of.

**V. CHITAMBARESH
JUDGE**