IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.Nos.245 to 247 of 2015
and
M.P.Nos.1,1 and 1 of 2015

Tvl.RP Telebuy Skyshop Private Limited,
represented by its Director,
C.Vasanth
No.14-13th Main Road,
India Land Tech Park,
Ambathur Industrial Estate,
Chennai-600 058. ... Appellant in all writ appeals

Vs.

The Assistant Commissioner (CT)
Vadapalani Assessment Circle,
No.1,Greams Road,
Chennai-600 006. ... Respondent in all writ appeals

These Writ Appeals are preferred under Clause 15 of the Letters Patent against the orders dated 27.01.2015 passed in W.P.Nos.1644 to 1646 of 2015.

Wps. 1644 to 1646/15:
The Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the Impugned Proceedings on the file of the respondent in TIN/33571463896/2010-11, TIN/33571463896/2011-12 and TIN/33571463896/2013-14 dated 23.12.2014 respectively and quash the same and direct the respondent to redo the assessment after giving personal hearing.

For Appellant	:	Mr.Arvind P.Datar, SC for Mr.R.Sivaraman
For Respondent	:	Mr.V.Haribabu, AGP (Taxes)

COMMON JUDGMENT

(Judgment of the Court was delivered by SATISH K. AGNIHOTRI, J.)

With the consent of parties, these writ appeals are taken up for final consideration.

2. The instant intra-court appeals arise from the common order dated 27.01.2015 passed in W.P.Nos.1644 to 1646 of 2015.

3. All writ appeals involve identical facts and question of law and as such, all writ appeals are being considered and decided together. The writ petitioners came up with the writ petitions, questioning the legality of the proceedings on the file of the respondent in TIN/33571463896/2010-11, TIN/33571463896/2011-12 and TIN/33571463896/2013-14 dated 23.12.2014 mainly on the ground that no opportunity of hearing was afforded before passing the impugned assessment orders.

4. The learned Single Judge, holding that the issue involved disputed questions of fact and as such the writ petitioners ought to have taken recourse to the appellate authority under the provisions of law, dismissed the writ petitions, reserving liberty to the appellant / writ petitioner to take recourse to the appellate forum.

5. The learned counsel for the respondent would submit that if the matters are remitted back to the assessing officer to consider afresh after affording opportunity of hearing, the respondent has no objection.

6. Upon perusal of the assessment orders, it appears that objections filed by the assessee have been considered. However, it appears that no personal hearing was afforded to the writ petitioners. It is not clear as to whether the assessee has made a request for personal hearing or not. However, looking into the requirement of the provisions under Section 27 of the Tamil Nadu Value Added Tax Act, 2006, in addition to the opportunity to file objections, the assessee may be given an hearing, including personal hearing.

7. Having regard to the fact that the validity of the assessment orders have been questioned on the ground of violation of principles of natural justice and also keeping in view the submission of the learned counsel for the respondent, without going into the merits of the case, we are of the considered view that the assessing authority may examine the matter afresh after affording an opportunity of hearing. Thus, the common order of the learned Single Judge is set aside and the impugned assessment orders are also set aside. The matters are remitted back to the Assessing Authority to pass a fresh order after giving opportunity of hearing including personal hearing to the appellant/writ petitioner, as affording personal hearing would ensure proper adjudication and no prejudice would be caused to the other party. Such exercise shall be completed at the earliest.

8. These writ appeals are, accordingly, allowed. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

vvk

To

The Assistant Commissioner (CT)
Vadapalani Assessment Circle,
No.1,Greams Road,
Chennai-600 006.

+1cc to M/s. R.Siva Raman, Advocate, S.R.No.10334
+1cc to the Special Government Pleader(T), S.R.No.9774

W.A.Nos.245 to 247 of 2015

CA(CO)
CA(05/03/2015)