IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2015

CORAM :

THE HONOURABLE MR. JUSTICE T. RAJA

W.P.NO.10812 OF 2015
and
M.P. Nos. 1 and 2 of 2015

M/s. V3, Automotives Private Limited,
Rep.by its Authorized Signatory
-P.L.Muthu Palaniappan ...Petitioner

Vs

The Assistant Commissioner(CT),
Tiruvanmiyur Assessment Circle,
Chennai. ...Respondent

PRAYER: Petition has been filed under section 226 of the Constitution of India to issue an order of Writ of certiorari, to call for the records on the file of the respondent in its impugned proceedings made in TIN.33570926419/2012-13 dated 02.02.2015 and quash the same as illegal and arbitrary.

For petitioner : Ms. R.Hemalatha

For respondent : Mr.S.Kanmani Annamalai, AGP(T)

O R D E R

This Writ petition is filed challenging the impugned order passed by the Assistant Commissioner (CT), Thiruvanmiyur Assessment Circle, Chennai, wherein it has been held that the petitioner Company is not eligible to claim ITC on the purchases made during the year 2012-13 after the prescribed time limit of 90 days. On this basis, the petitioner company was directed to pay a reversal amount of Rs.7,17,666/- along with penal interest under Section 42(3) of TNVAT Act, 2006 within 10 days from the date of receipt of that notice.

2. Learned counsel appearing for the petitioner, assailing the impugned order would submit that when there has been a finding entered against the petitioner, holding that the petitioner company

is not eligible to claim ITC on the purchases made during the year 2012- 13, notice ought to have been issued calling for explanation. Only on receipt of the explanation, if the respondent is not satisfied, they could have passed the impugned order. But in the present case, they have not followed such a mandatory provision.

3. At this point of time, Mr. Kanmani Annamalai, learned Additional Government Pleader (Taxes) representing the respondent submitted that the Assistant Commissioner (CT), the respondent herein has not issued any prior notice of hearing to submit any explanation to say that the petitioner company is eligible to claim ITC on the purchases made during the financial year 2012-13.

4. In view of the above, the impugned order is liable to be set aside. Accordingly, the same is set aside and the matter is remanded back to the respondent to issue fresh notice to the petitioner and on receipt of the explanation, if any, he shall proceed in accordance with law and the Circular ref. Acts Cell-VI/13234/2001 dated 20.04.2001.

5. With this observation, the writ petition is allowed and the impugned proceedings in TIN.33570926419/2012-13 dated 02.02.2015 is set aside. Consequently, the connected M.Ps are closed. No order as to costs.

Sd/-
Assistant Registrar(R)

//True Copy//

Sub Assistant Registrar

avr

To

The Assistant Commissioner(CT),
Tiruvanmiyur Assessment Circle, Chennai

1 CC to Ms. R.Hemalatha, Advocate SR.No. 20360
1 CC to the Government Pleader, SR.No. 20585

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RJ (CO)
PSI (14.05.2015)