IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.03.2015

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7528 of 2015 and M.P.Nos.1 & 2 of 2015

Tata Sky Limited,
rep. by its Deputy General Manager
V.Kalyan Kumar ...Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by the Secretary,
Commercial Taxes and Registration Department,
St. George Fort, Chennai-600 009.

2.The Commercial Tax Officer,
Guindy Assessment Circle,
46, Greenways Road,
Taluk Office Building, R.A.Puram,
Chennai-28.

3.The Appellate Deputy Commissioner (CT) East,
Commercial Taxes Building Annexe 3rd Floor,
Greams Road, Chennai-6 ...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for records pertaining to order passed by the respondent No.3 bearing reference No.Rc.106/2015/A dated 02.03.2015 rejecting the Appeal filed by the petitioner and to quash the same as illegal, vexatious and unconstitutional and consequently to direct the third respondent to entertain and hear the appeal on merits under the provisions of TNVAT by recalling Form U dated 05.03.2015 and communication thereof issued by the second respondent.

For Petitioner : Mr.A.K.Rajaraman

For Respondents : Mr.Kanmani Annamalai
Additional Government Pleader (T)

O R D E R

With the consent on either side the Writ Petition itself is taken up for final disposal at the admission stage.

2.The petitioner has come forward with the aforesaid prayer challenging the order dated 02.03.2015.

3.The petitioner admittedly preferred an appeal against rectification petition under Section 84 of the Tamil Nadu Value Added Tax Act and against the original assessment order. According to the petitioner, the rectification petition was partly allowed and aggrieved by the portion of the order in the rectification petition, the petitioner has preferred an appeal before the Appellate Authority under Section 51 of the VAT Act.

4.Learned counsel for the petitioner contended that the authority has simply rejected the appeal without hearing the petitioner. He would further submit that in terms of Section 84(5) of the Act, appeal is maintainable.

5.Whether the appeal is maintainable in terms of Section 84 (5) of the Act or the only remedy available to the petitioner is revision under Section 54 of the Act have to be decided only by the authority, after giving an opportunity to the petitioner of being heard and detailed order shall be passed by the authority.

6.Since it is a nonspeaking order and as opportunity, which is a mandatory one, has not been given to the petitioner, I set aside the order dated 02.03.2015 and remit the matter to the Appellate Authority to decide the matter afresh on merits, after affording an opportunity of being heard to the petitioner. The appellate Authority is directed to number the petition and the petitioner shall appear before the appellate authority on 21.04.2015 and after hearing the petitioner, the authority shall decide the matter afresh.

7.Accordingly, the Writ Petition is allowed. Consequently connected miscellaneous petitions are closed. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

vga

To

1.The State of Tamil Nadu,
rep. by the Secretary,
Commercial Taxes and Registration Department,
St. George Fort, Chennai-600 009.

2.The Commercial Tax Officer,
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46, Greenways Road,
Taluk Office Building, R.A.Puram,
Chennai-28.

3.The Appellate Deputy Commissioner (CT) East,
Commercial Taxes Building Annexe 3rd Floor,
Greams Road, Chennai-6

2 ccs to Mr.R. Sathishkumar, Advocate, Sr. 15743
1 cc to Spl.Government Pleader, sR. 15702

W.P.No.7528 of 2015

VSN (CO)
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