IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.1213 of 2016
and W.M.P.No.949 of 2016

M/s.Maxcell Distributors
rep by its Managing Partner Senthil Kumar
Syndicate Residency
3/36, Flat 38-C, Dr.Thomas Street,
T.Nagar, Chennai - 600 017. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Nandanam Assessment Circle,
46, Greenways Road,
Chennai - 600 028. ... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorari to call for the records of the respondent herein in TIN/33581583152/2014-15 and quash the order dated 30.11.2015 passed therein.

For Petitioner : Ms.Hema Murali Krishnan

For Respondent : Mr.S.Kanmani Annamalai,
Additional Government Pleader (Tax)

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of certiorari to call for the records of the respondent herein in TIN/ 33581583152/2014-15 and quash the order dated 30.11.2015 passed therein.

2.It is the case of the petitioner that the respondent, even without considering the Form WW on the basis of the report of the Enforcement Wing Officers and without independent application of mind, has passed the impugned order. Further, the petitioner contended that no notice was issued under Section 27 of the TNVAT Act. The learned counsel for the petitioner also submitted that time for filing Form WW Audit Report expires on 31.01.2016 and the petitioner has not filed the Form WW Audit Report prior to 30.11.2015 when the impugned order was passed.

3.Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) appearing for the respondent submitted that since the turnover details for the entire year has not been taken into consideration by the respondent and no notice was issued to the petitioner under Section 27 of the Act, the respondent may be directed to decide the matter afresh.

4.Form WW audit report and trading account will contain turnover details for the entire year and it is absolutely impossible to cull out details upto November 2014 from the said report. The impugned order has been passed by the respondent without perusing the books of accounts and records. Under Section 27 of the Act, the petitioner is entitled to notice issued by the respondent. In these circumstances, the impugned order passed by the respondent is set aside and the matter is remanded back to the respondent for fresh consideration. The respondent is directed to issue notice to the petitioner. The petitioner shall also file Form WW before the respondent. The respondent is directed to consider Form WW and decide the matter afresh, after considering the objections filed by the petitioner and the Form WW, after giving due opportunity of hearing to the petitioner.

5.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

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Assistant Registrar (CO)

True copy

Sub Assistant Registrar.

To

The Assistant Commissioner (CT),
Nandanam Assessment Circle,
46, Greenways Road,
Chennai - 600 028.

+ 1 cc to Mr.L.Murali Krishnan, Advocate SR 11603

+ 1 cc to Spl. Govt.Pleader SR 11238

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