IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 23.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.23096 of 2015
&
M.P.No.1 of 2015

Tvl.Nagappa Auto
Rep. by its Partner M.Sundaram
B-25, II Avenue
Anna Nagar East
Chennai - 600 102 .. Petitioner

Vs.

The Assistant Commissioner (CT) (Main)
Amaindakarai Assessment Circle
Chennai - 600 108 .. Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari calling for the records relating to the proceedings of the respondent in TIN/33631021543/2011-12 dated 16.06.2015 and quash the same.

For Petitioner : Mr.S.Raveekumar

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

O R D E R

Heard Mr.S.Raveekumar, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondents. With the consent of the learned counsel appearing on either side, the writ petition itself is taken up for final disposal.

2. The petitioner, who is a registered dealer under the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act), has challenged the Order of Assessment passed by the respondent dated 16.06.2015 for the year 2011-12. The petitioner has challenged the impugned Assessment Order on the ground of violation of principles of natural justice as well as on the merits of the assessment. It is contended by the learned counsel for the petitioner that though the respondent has received the

petitioner's objection, it is recorded as if the petitioner did not file their objection. The petitioner showed prove to show that the objections were received by the respondent. Therefore, this Court directed the respondent to verify as to whether objections have been received and directed to maintain status-quo by order dated 31.07.2015.

3. Today, the learned Additional Government Pleader, on instructions from the respondent, would submit that the objections are in the files of the respondent, but it was not placed before the Assessing Officer prior to the passing of the order and brought to his notice only after the passing of the impugned Assessment order.

4. The said submission is enough to hold that the order has been passed without considering the objections filed by the petitioner, which was available on record. Therefore, the impugned order is liable to be set aside on the above ground and the matter should be remanded to the respondent for fresh consideration and when the matter is considered afresh, it is open to the petitioner to canvass other contentions regarding the merits of the Assessment.

Accordingly, this writ petition is allowed and the impugned order dated 16.06.2015 is quashed and the matter is remitted to the respondent for fresh consideration, who shall afford an opportunity of personal hearing to the petitioner and proceed to complete the assessment. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT) (Main),
Amaindakarai Assessment Circle,
Chennai - 600 108.

+1cc to the Special Government Pleader Sr.35442

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pvs[co]
srg 21/07/2016