IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.31616 of 2015
and M.P.No.1 of 2015

M/s.CABCO PARADISE (P) Ltd.,
rep by its Director
No.8, Baker Street, 1st Floor,
(Opp to Law College),
Chennai - 600 001. ... Petitioner

Vs.

1.The Joint Commissioner (CT),
Enforcement - 1,
Chennai - 600 006.

2.The Commercial Tax Officer,
Group-VI, Enforcement (North),
Greams Road, Chennai - 600 006.

3.The Commercial Tax Officer,
Loansquare Assessment Circle,
Chennai - 600 001. ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the 2nd respondent in his VAT Audit report in VA-02 dated 24.01.2014 and quash the same as the VAT Audit was conducted as per the orders of the 1st respondent without any jurisdiction as per the statute.

For Petitioner : Mr.C.Baktha Siromoni

For Respondents: 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 2nd respondent in his VAT Audit report in VA-02 dated 24.01.2014 and quash the same as the VAT Audit was conducted as per the orders of the 1st respondent without any jurisdiction as per the statute.

2.It is the case of the petitioner that the 1st respondent viz., the Joint Commissioner (Commercial Tax – Enforcement -1) had authorized the Assessing Officer to conduct the audit, which has been impugned in the Writ Petition.

3.Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) appearing for the respondents submitted that the Joint Commissioner (Commercial Tax) has no authority to authorize the Deputy Commercial Tax Officer to conduct the VAT Audit and only the Commissioner has got jurisdiction to issue such an authorization.

4.The learned counsel for the petitioner relied upon the order made in W.P.No.7564 of 2015 dated 18.03.2015 wherein this Court set aside the order passed by the Deputy Commissioner (Commercial Tax) stating that under Section 64 (4) of the TNVAT Act, only the Commissioner can authorize the Deputy Commercial Tax Officer. In that case, no authorization was given to the Deputy Commercial Tax Officer by the Commissioner. In the case on hand, the 1st respondent viz., the Joint Commissioner (Commercial Tax) has given authorization to the Deputy Commercial Tax Officer. In view of the provisions of the Section 64 (4) of the TNVAT Act, only the Commissioner can authorize the Deputy Commercial Tax Officer to conduct VAT Audit.

5.In these circumstances, the impugned order dated 24.01.2014 passed by the 2nd respondent is liable to be set aside. Accordingly, the impugned order is set aside and the matter is remanded back to the 2nd respondent for fresh consideration. The 2nd respondent is directed to conduct VAT Audit in accordance with the provisions of the Act and decide the matter afresh, after giving due opportunity of personal hearing to the petitioner.

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

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1.The Joint Commissioner (CT),
Enforcement - 1,
Chennai - 600 006.

2.The Commercial Tax Officer,
Group-VI, Enforcement (North),
Greams Road, Chennai - 600 006.

3.The Commercial Tax Officer,
Loansquare Assessment Circle,
Chennai - 600 001.

+1cc to Mr.C.Baktha Siromoni, Advocate, S.R.No.11949
+1cc to the Government Pleader, S.R.No.11967

W.P.No.31616 of 2015
and M.P.No.1 of 2015

skv(CO)
srg(11/03/2016)