IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.28274 of 2016

Wheels India Limited,
Rep. By its President (Finance)
and Secretary S.Srivathsan,
No.21, Patullos Road,
Chennai - 2. ...Petitioner

Vs.

1.The Assistant Commissioner (CT),
Anna Salai II Assessment Circle,
Sire Mansion,
621, Anna Salai,
Chennai - 6.

2.The Appellate Deputy Commissioner
(CT) (Appeals),
Chennai - Central,
III Floor, PAPJM Building Annexe,
No.1, Greams Road,
Chennai - 6.

3.The Joint Commissioner (CT),
Chennai (East) Division,
PAPJM Building, III Floor,
No.1, Greams Road,
Chennai - 6. ...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of certiorarified mandamus to call for the records on the file of the third respondent in R.P.No.58/2014, dated 30.10.2015, quash the same while directing the third respondent to redispose the revision filed by the petitioner in R.P.No.58/2014 arising out of the assessment year 2011-12.

For Petitioner : Mr.N.Inbarajan

For Respondents: Ms.Vasudha Thiyagarajan, AGP

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ORDER

Heard Mr.N.Inbarajan, learned counsel for the petitioner and Ms.Vasudha Thiyagarajan, learned Additional Government Pleader, who accepts notice for the respondents, and with their consent, the writ petition itself is taken up for disposal.

2. The petitioner, who is a registered dealer on the file of the first respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act), has filed this writ petition challenging the order passed by the third respondent who is the revisional authority. The assessment for the year 2011-2012 was completed by the first respondent by order dated 25.03.2014. As against the reassessed turnover for the relevant year and the reversal of ITC, the petitioner has filed an appeal before the second respondent and as against the levy of interest, the petitioner has filed a revision before the third respondent. This revision was taken on file as R.P.No.58 of 2014. The appeal filed by the petitioner before the second respondent in A.P.No.399 of 2014 VAT was partly allowed and partly dismissed by order dated 24.08.2015. Though the second respondent stated that the appeal is partly allowed and partly dismissed, the reason for saying partly dismissed is because as against the levy of interest under Section 42(3) of the Act, the petitioner had to pursue the matter before the third respondent under Section 51, the second respondent thought fit to dismiss the appeal to that extent as not maintainable. Thus, in sum and substance, the petitioner has succeeded before the second respondent and the order of assessment as framed by the first respondent dated 25.03.2014 stood set aside. The petitioner through their counsel letter dated 29.09.2015 informed the third respondent about the order passed by the second respondent in the appeal petition. Thus, the petitioner contended that the revision has to be allowed.

3. It is further stated that during the personal hearing before the third respondent, the authorized representative also brought to the notice of the third respondent about the order passed in the appeal and produced a copy of the order therefor. However, the third respondent has passed the impugned order dismissing the revision petition.

4. On perusal of the impugned order, it is seen that it is a non-speaking order and the revisional authority has not at all applied his mind and in an arbitrary manner dismissed the petition. This is sufficient to set aside the impugned order. One another reason to interfere with the impugned order is on the ground that the petitioner has succeeded before the appellate authority.

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5. Learned Additional Government Pleader appearing for the respondents submitted that the revenue has filed an appeal before the Tamil Nadu Sales Tax Appellate Tribunal against the order passed in A.P.No.399/2014 VAT, dated 24.08.2015. Though such an appeal has been preferred, that by itself cannot validate the impugned order passed by the third respondent.

6. Hence, for all the above said reasons, the writ petition is allowed and the impugned order dated 30.10.2015 is quashed, leaving it open to the first respondent to take appropriate action subject to the outcome of the appeal filed by the revenue before the Tamil Nadu Sales Tax Appellate Tribunal against the order passed by the second respondent in A.P.No.399/2014 VAT, dated 24.08.2015. No Costs. WMP.No.24397 of 2016 is closed.

rkm

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Assistant Commissioner (CT),
Anna Salai II Assessment Circle,
Sire Mansion, 621, Anna Salai,
Chennai - 6.

2.The Appellate Deputy Commissioner
(CT) (Appeals), Chennai - Central,
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3.The Joint Commissioner (CT),
Chennai (East) Division,
PAPJM Building, III Floor,
No.1, Greams Road, Chennai - 6.

+ 1 cc to Mr.N.Inbarajan, Advocate Sr 46212
+ 1 cc to The Spl.Govt.Pleader(Taxes), Hct, Mds. Sr 46436

KR/30/8/16 W.P.No.28274 of 2016

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