IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.3318 of 2015
and M.P.No.2 of 2015

Tvl. Vivek Ltd.,
rep. by its Vice President (Finance & Corporate Affairs) B.K.Anand,
No.133, Royapettah High Road,
Chennai-600 004. ..Petitioner

-Vs-

The Assistant Commissioner (CT),
Mandaveli Assessment Circle,
No.46, Pasumpon Muthuramalingam Salai,
Chennai-600 028. ..Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari, calling for the records in respect of the Assessment Order bearing TIN 33530801214/2011-12 dated 18.12.2014 passed by the respondent in respect of the assessment year 2011-12 under the Tamil Nadu Value Added Tax Act, 2006 and the consequent notice of Assessment and demand dated 18.12.2014 issued by the respondent and to quash the same.

For Petitioner : Mr.R.Parthasarathy

For Respondent : Mr.ANR.Jayaprathap, SGP (T)

O R D E R

With the consent of both parties, the Writ Petition is taken up and heard today through Video Conferencing.

2. Under Section 27(2) of the Tamil Nadu Value Added Tax Act, 2006, no order shall be passed under sub sections (1) & (2) of Section 27, without giving the dealer a reasonable opportunity to show cause against such order.

3. One of the main grounds raised by the petitioner while the impugned proceedings were passed is that, they were not given opportunity to put forth their objections and that they

are in possession of valid objections, which may have a bearing on the assessment. The impugned proceedings in this Writ Petition does not reveal that the petitioner was given opportunity of personal hearing. Mere consideration of the objections of the dealer would not be sufficient to tender that due opportunity was extended to the dealers. In this background, it would be appropriate to remand the matter back to the Assessing Authority for fresh consideration after extension of due opportunity of personal hearing to the petitioner. Accordingly, the impugned proceedings in TIN 33530801214/2011-12 dated 18.12.2014 is set aside and the matter is remanded back to the respondent for fresh consideration. The respondent shall extend due opportunity of personal hearing to the petitioner to put forth his objections, if necessary through video conferencing. On consideration of the petitioner's objections, the respondent herein shall take appropriate course of action, in accordance with law, as expeditiously as possible.

4. With the above observations, the Writ Petition stands disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT),
Mandaveli Assessment Circle,
No.46, Pasumpon Muthuramalingam Salai,
Chennai-600 028.

W.P.No.3318 of 2015
and M.P.No.2 of 2015

SSI(CO)
RV(04/11/2020)