IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2021

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.22198 to 22201 of 2016
and W.M.P.Nos.18946 to 18949 of 2016

M/s.Visteon Automotive Systems Pvt.Ltd.,
Rep.by its Dy.General Manager - Indirect Taxation,
No.1, SIDCO Industrial Estate,
Olympia Technology Park,
Labour Colony, Chennai - 600 032. ...Petitioner in all WPs.

Vs

The Deputy Commissioner (CT) IV,
Large Taxpayers Unit,
V Floor, Dugar Towers,
No.34, Marshalls Road,
Chennai - 600 008. ...Respondents in all WPs.

COMMON PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying to issue Writs of Certiorarified Mandamus, to call for the records of the respondent in the impugned revision order in TIN Nos.33910904989/2011-12, 33910904989/2012-13, 33910904989/2013-14 & 33910904989/2014-15 respectively, dated 31.05.2016, quash the same as the respondent has passed the impugned order dated 31.05.2016 violating principles of natural justice since input tax credit has been reversed for alleged mismatch between sales reported by the vendors and purchases reported by the petitioner without providing any details of alleged mismatch despite multiple requests and travelling beyond the scope of Entry 138, Part - B, First Schedule, Tamil Nadu Value Added Tax, 2006 and used cars in insisting upon an industrial input certificate which is not mandated by law for sale of tools and used cars.

For Petitioner : Mr.V.S.Manoj

For Respondent : Mr.V.Nanmaran
Government Advocate
..in all WPs.

COMMON ORDER

The Revision of Assessment passed in the order dated 31.05.2016, is under challenge in these writ petitions.

2. The petitioner is a registered dealers under the provisions of the Tamil Nadu Value Added Tax Act, 2006 engaged in manufacture and sale of automobile components and discharged VAT as per the provisions of law and also availed input tax credit. He further states that the petitioner filed their returns within the time limit specifying the details of sale, availment of input tax credit with documents to establish the genuineness of the transaction.

3. The learned counsel for the petitioner made a submission that the opportunity of hearing was not provided to the writ petitioner, thus the Authority has violated the principles of natural justice. It is further contended that when the assessee is entitled for an opportunity and such an opportunity is denied, the assessment order is liable to be set aside.

4. This Court is of the considered opinion that the opportunity, if not provided, certainly a good ground for interference. However, the Appellate Authority is conferred with powers to annul or enhance or reduce or to remand the matter back to the Original Authority for fresh consideration. The proceedings of an appeal is the continuation of original proceedings and opportunity denied may be provided by the appellate authority and such an opportunity is to be availed by the Assessee for the purpose of defending their case. The very legislative intention for providing an appeal is to ensure that the procedural lapses, if any, would be considered and, if at all, the petitioner has no such opportunity, is to be provided to the satisfaction of the appeal in the Appellate Authority and even at that point of time, the assessee is at liberty to avail opportunity and submit their complete defense in order to establish their case.

5. Therefore, the powers conferred to the appellate authority to reduce, enhance, annul the assessment or to remand the matter back was taken care of the entire grounds raised by the petitioner, including the ground of violation of principles of natural justice, as it is contended that no opportunity was provided. Thus, entertaining a writ petition and setting aside the assessment as prayed for by the petitioner, deserves no merit consideration by this Court under Article 226 of the Constitution of India. The writ petitioner has to prefer an appeal as contemplated under the Act and Statutes.

6. Accordingly, these writ petitions stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Pns

To

The Deputy Commissioner (CT) IV,
Large Taxpayers Unit,
V Floor, Dugar Towers,
No.34, Marshalls Road,
Chennai - 600 008.

+1 CC to Mr.K.Vaitheeswaran, Advocate, Sr.No. 34411.
+1 CC to The Government Pleader, Sr.No. 34690.

W.P.Nos.22198 to 22201 of 2016
and W.M.P.Nos.18946 to 18949 of 2016

CA(CO)
LS(31/08/2021)