IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2015

CORAM :

THE HONOURABLE MR. JUSTICE T. RAJA

W.P.NO.10776 OF 2015
and
M.P. Nos. 1 and 2 of 2015

M/s. Bhairav Trading Company,
Represented by its Proprietor,
No.4, Singanna Naicken Street,
Chennai-600 001. ...Petitioner

Vs

1 The Assistant Commissioner(CT),
Broadway Assessment Circle,
Chennai.

2 The Deputy Commissioner (CT),
Computer Cell, PAPJM Building,
Greams Road,
Chennai-600
006. .. Respondents

PRAYER: Petition has been filed under section 226 of the Constitution of India to issue an order of Writ of Mandamus, to call for the impugned proceedings of the first respondent in Rc.No./ 33480061374 dated 13.2.2015 and quash the same as passed contrary to the provisions of the Tamil Nadu Value Added Tax Act and also against the principles of natural justice and further direct the first respondent to activate the petitioner's TIN 33480061374 and pass further orders.

For petitioner : Mr. P.Raj Kumar

For respondents : Mr.S.Kanmani Annamalai,
AGP (T) for R1 & R2.

O R D E R

With the consent of both the parties, the writ petition is taken up for disposal, at the stage of admission itself.

2. This Writ Petition has been directed against the impugned order passed by the Assistant Commissioner (CT), Broadway Assessment Circle, Chennai, on the ground that the first respondent has wrongly cancelled the registration certificate of the petitioner without granting reasonable opportunity to him. It was also the case of the petitioner that the first respondent failed to note that for local purchases and sales, it is not legally required to prove the movement of goods. The only proof for the purchase is the original tax invoice raised by the earlier seller and the payment of tax to the seller. This issue has also been covered in the order passed by this Court in W.P. No.7657 of 2015 dated 18.03.2015, wherein this Court taking note of the fact that the first respondent has cancelled the registration certificate of the petitioner therein, without granting reasonable opportunity and applying the ratio laid down in the case of Jinasan Distributors vs. Commercial Tax Officer (CT), Chintadripet Assessment Circle, Chennai reported in 2013 59 VST 256 (Mad), set aside the impugned proceedings therein, with a direction to the first respondent to activate the registration certificate within one week from the date of receipt of a copy of the order thereof.

3. Mr. Kanmani Annamalai, learned counsel representing the respondents fairly agreeing that the issue raised in the present writ petition has been covered in the aforesaid order, submitted that the matter may be disposed of, as per the ratio laid down in the aforementioned judgment.

4. In the present case also, the impugned order has been passed cancelling the petitioner's registration certificate with retrospective effect, that too, without giving reasonable opportunity to the petitioner. The first respondent while cancelling the TIN of the petitioner for the reasons mentioned therein, had completely overlooked the fact that the only proof for the purchase is the original tax invoice raised by the earlier seller. When that has not been taken into account and the respondents having received a detailed representation from the petitioner along with a specific explanation that the issue raised in the case has been covered, in my considered view the respondents ought to have accepted the case of the petitioner in the light of the ratio laid down by this Court in Jinasan Distributors vs. Commercial Tax Officer (CT), Chintadripet Assessment Circle, Chennai reported in 2013 59 VST 256 (Mad). As the above judgment is squarely applicable to the facts of this case, the impugned order is liable to be set aside.

5. Accordingly, the respondents are directed to activate the certificates within a period of one week from the date of receipt of a copy of this order. Consequently, the connected M.P is closed. No order as to costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

avr

To

1 The Assistant Commissioner(CT),
Broadway Assessment Circle,
Chennai.

2 The Deputy Commissioner (CT),
Computer Cell, PAPJM Building,
Greams Road, Chennai-600 006.

1 cc to M/s.P. Rajkumar, Advocate, Sr. 20507
1 cc to Spl.Government Pleader, Sr. 20584

W.P.NO.10776 OF 2015
and
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BR (CO)
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