IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2015

CORAM

THE HONOURABLE MR.JUSTICE T. RAJA

Writ Petition No.13650 of 2015
M.P.Nos.1 and 2 of 2015

M/s.A.S.Enterprises,
Rep., by its Proprietor,
R.Amitkumar ... Petitioner

Vs.

The Assistant Commissioner (CT),
Thiruvottiyur Assessment Circle,
No.791, T.H.Road, Chennai 600 019. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari, to call for the records, relating to the proceedings of the respondent in cancellation of registration order in Pdl.178/2015/A1, dated 31.03.2015 and consequential notice in TIN: 33246260776/2014-15 and CST.1211069/2014-15, dated 09.04.2015 and quash the same as illegal.

For Petitioner : Mr.T.Pramodkumar Chopda

For Respondent : Mr.Manoharan Sundaram
Addl. Government Pleader (T)

O R D E R

This writ petition has been directed against both the impugned order, dated 31.03.2015 and the consequential notice, dated 09.04.2015, passed by the respondent, as they are not only against the principles of natural justice and fairplay, but also against the provision under Section 39(14) of the Tamil Nadu Value Added Tax Act.

2. Learned counsel for the petitioner, explaining further, would submit that the impugned proceedings issued by the respondent is fully arbitrary, as it has cancelled the registration certificate, with retrospective effect from 27.10.2014, which is contrary to Section 23(4) of the said Act. He would also contend that when there is no enabling provision to cancel the registration certificate, with retrospective effect, the impugned order has to be construed, as nullity. Added further, he would submit that the petitioner was not

provided with an opportunity of personal hearing, before passing the cancellation order.

3. Learned Additional Government Pleader (Taxes), appearing for the respondent, fairly appreciating the infirmities committed by the respondent, has no reply to support the impugned order.

4. Admittedly, the respondent, while passing the impugned order, has committed serious mistake, by cancelling the registration certificate, with retrospective effect, from 27.10.2014, mindless to the consequences of all the purchasers of the petitioner. That apart, the petitioner was not provided with any reasonable opportunity.

5. On both the score, the writ petition is liable to be allowed and accordingly, allowed. The respondent is directed to restore the registration certificate, on production of a copy of this order. It is open to the respondent to invoke Section 39(14) of the act, in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

The Assistant Commissioner (CT),
Thiruvottiyur Assessment Circle,
No.791, T.H.Road, Chennai 600 019.

1 cc to Spl. Government Pleader(Taxes).Sr.No.28128/15

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kgk(co)
pmk.22.6.2015