IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.17557 of 2015
& M.P.No.1 of 2015

Mariyam Exports
rep. by its Proprietor
Mohamed Ibrahim ... Petitioner

Vs

The Assistant Commissioner (CT),
Nungambakkam Assessment Circle,
No.31, Mayor Ramanathan Salai,
Chennai - 600 031. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certorari to call for the records pertaining to the issue of order in proceedings bearing cancellation ID No.729773504, dated 23.03.2015 duly issued by the Assistant Commissioner Commercial Taxes, Nungambakkam Assessment Circle, No.31, Mayor Ramanathan Salai, Chennai 600 031, the respondent herein and quash the same.

For petitioner : Mr.D.Ashok Kumar

For respondent : Mr.A.N.R.Jayapratap, GA (T)

O R D E R

Heard the learned counsel for the petitioner and Mr.A.N.R.Jayapratap, learned Government Advocate, who took notice for the respondent and with their consent, the main writ petition itself is taken up for disposal.

2. This writ petition has been filed challenging the Cancellation made in ID. No.729773504, dated 23.03.2015. The impugned order was passed on the ground that the dealer has not filed monthly returns

from June 2014 and the notice for cancellation sent to the petitioner was returned as unserved and hence, the Registration Certificate came to be cancelled.

3. However, learned counsel for the petitioner while referring the said contention of the impugned order has brought to the notice of this Court the acknowledgment issued by the authority for having received the returns filed. Further, the learned counsel also submits that no such notice was issued to the petitioner before cancelling the Registration Certificate as provided under Section 39 (14) & (15) of TNVAT Act and sought to quash the said order.

4. In this regard, learned Government Advocate (T) was directed to bring the files on an earlier occasion and accordingly the files are produced for perusal.

5. From the perusal of the files more particularly in Page Nos. 113 and 114, wherein, it is ascertained that a notice was issued to a wrong address by the respondent and hence, the petitioner was not able to file any objections. Therefore, it is apparent that no opportunity was provided to the petitioner as per Sections 39 (14) & (15) of the TNVAT Act before cancellation. Hence, this Court is of the view that on this sole ground itself, the impugned order is liable to be set aside.

7. Accordingly, the impugned order is set aside. The matter is remitted back to the authority for passing fresh orders. The respondent is directed to verify all the documents alongwith returns filed by the petitioner and thereafter take appropriate action in this regard. If the authority so chooses to cancell, an opportunity must be provided to the petitioner by issuing appropriate notice and on receipt of the same, the petitioner may file an objection which shall be considered by the authorities, within a period of four weeks after affording due opportunity of personal hearing to the petitioner. This writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

smi

To

The Assistant Commissioner (CT),
Nungambakkam Assessment Circle,
No.31, Mayor Ramanathan Salai,
Chennai - 600 031.

+1cc to M/s.D.Ashok Kumar, Advocate, S.R.No.42169
+1cc to the Special Government Pleader(Taxes), S.R.No.41538

W.P.No.17557 of 2015

CTK(CO)
CA(01/09/2015)