IN THE HIGH COURT OF JUDICATURDE AT MADRAS

Dated: 26.06.2015

Coram

The Honourable Mr.JUSTICE T.RAJA

W.P.No.18584 of 2015

M/s.D.R.Metals .. Petitioner

vs.

1.The Assistant Commissioner(CT),
Harbour V Assessment Circle,
Chennai-600 001

2.The Assistant Commissioner(CT),
Esplanade Assessment Circle,
Chennai-600 001 .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the second respondent to reactivate and restore the TIN No.33480081938 and the Certificate of Registration of the petitioner issued under the Tamil Nadu Velue Added Tax Act, 2006 and the Central Sales Tax Act, 1956.

For Petitioner : Mr.P.V.Sudakar

For respondents : Mr.V.Haribabu,A.G.P.

ORDER

This writ petition has been filed by M/s.D.R.Metals, seeking a mandamus directing the second respondent to re-activate and restore the TIN No.33480081938 and the Certificate of Registration of the petitioner issued under the Tamil Nadu Velue Added Tax Act, 2006 and the Central Sales Tax Act, 1956, in the light of the order passed by the Joint Commissioner (CT) Chennai North Division in R.P.No.2 of 2014, on 30.06.2014, wherein it has been observed as under:

> "Further, the Registering Authority has also not afforded the personal hearing, as stipulated in Sec.39(15) of the TNVAT Act 2006 and also not followed the procedures prescribed under Rule 19 of TNVAT Rules 2007, before passing the impugned order. Thus, the principles of natural justice have not been followed by the Assistant Commissioner(CT), Harbour-V Assessment Circle, while cancelling the Registration Certificate of the petitioner.

Since the Registering Authority has cancelled the registration of the petitioner for non-availability, at the place of business and also the

facts as to whether the petitioners actually exist at the place of business, whether business transactions are actually carried on by them at the said place of business and whether such transactions are genuine, are verifiable only by the Registering Authority, the case is remanded back to the Registering Authority with direction to verify the above facts and restore the TIN of the petitioners, if the above conditions and other provisions of the Act are complied with."

2. Heard the learned counsel for the petitioner and Mr.V.Haribabau, the learned Additional Government Pleader, who takes notice on behalf of the respondent.

3. When the Joint Commissioner (CT) Chennai North Division has remanded the matter to the Registering authority with a direction to verify the above facts and restore the TIN number of the petitioner, the conditions specified in the said order and also the other provisions of the Act are to be complied with. However, till date the Registering Authority has not passed any order. The petitioner also has submitted a representation, dated 25.07.2014, requesting the first respondent to restore TIN No.33480081938, enabling them to continue their business, with further request to verify their place of business and the business transaction, as directed by the Joint Commissioner (CT) Chennai North Division, but till date nothing has happened.

4. As there has been a direction given by the Joint Commissioner (CT) Chennai North Division, as mentioned supra, the registering authority has to act upon the said direction, but he has not done so. It is a settled legal position that the petitioner's Registration number cannot be cancelled without notice to the petitioner. The petitioner has produced the Certificate of Registration, wherein it could be seen that the petitioner has been assigned with CST No.80156 and TIN No.33480081938, and the place of business of the petitioner has also been mentioned as No.93, Armenian Street, Mannady-Chennai-600 001. That apart the learned counsel for the petitioner has submitted that the Officer, who has visited the petitioner's place of business, has not even directed the petitioner to display the Certificate of Registration. All of a sudden, finding that the Certificate of Registration has not been displayed during his visit on an holiday, the Registering authority has hurriedly cancelled the petitioner's Certificate of registration.

5. Be that as it may. When there is a direction by the

Joint Commissioner(CT), Chennai North Division, in his order dated 30.6.2014, to restore the TIN number of the petitioner, subject to compliance of certain conditions and provisions of the Act, the said conditions shall be complied with. But till date, no order has been passed by the respondents. Hence, the second respondent is directed to restore and reactivate the petitioner's TIN No.33480081938 and the Certificate of Registration of the petitioner issued under the Tamil Nadu Value Added Tax act, 2006 and the Central Sales Tax Act, 1956, in the light of the order dated 30.06.2014, passed by the Joint Commissioner(CT), Chennai (North) in R.P.No.02/2014, within a period of eight weeks from the date of receipt of a copy of this order. It is needless to mention that if the respondents have got any grievance, they are at liberty to proceed in accordance with law, after issuing notice to the petitioner.

6. The writ petition is disposed of accordingly. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

Msk
To

1.The Assistant Commissioner(CT),
Harbour V Assessment Circle,
Chennai-600 001

2.The Assistant Commissioner(CT),
Esplanade Assessment Circle,
Chennai-600 001.

1 cc to Mr.P.Rajkumar , Advocate Sr.No.31602
1 cc to Spl. Government Pleader.Sr.No.31769

W.P.No.18584 of 2015

kgk(co)
pmk.20.8.2015