IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T. RAJA

Writ Petition No.18816 of 2015
M.P.No.1 of 2015

Sun Bright Industries Pvt. Ltd.,
rep., by its Director,
P.Shanmugavelu ... Petitioner

Vs.

The Assistant Commissioner (CT),
Saligramam Assessment Circle,
No.21, G.K.Industrial Estate,
Alapakkam, Chennai 600 116. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for Writ of Certiorarified Mandamus, to call for the impugned order passed by the respondent in TIN/33241393219/2014-15, dated 10.06.2015, quash the same and further direct the respondent to restore the Registration Certificate of the petitioner, with retrospective effect.

For Petitioner : Mr.N.Murali

For Respondent : Mr.A.N.R.Jayapratap
Government Advocate (Taxes)

O R D E R

This writ petition has been filed by M/s.Sun Bright Industries Pvt. Ltd., challenging the impugned proceedings passed by the Assistant Commissioner (CT), Saligramam Assessment Circle, respondent herein, in TIN/33241393219/2014-15, dated 10.06.2015, on the grounds that the respondent has wrongly effected cancellation of the Registration Certificate, without providing a personal hearing, which is mandated under Section 39(7) of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as “the Act”).

2. The petitioner, is a private limited company, incorporated under the Companies Act and is also a registered dealer, on the books of the respondent, both under the Tamil Nadu Value Added Tax Act, 2006 and Central Sales Tax Act, 1956, with effect from 11.03.2014. He claimed to have filed monthly returns, under the TNVAT Act, for the years 2013-14 (March 2014), 2014-15 and 2015-16 (upto the month of May' 2015).

3. It is the case of the petitioner that subsequently, when he has checked the website of the Department on 16.06.2015, it was displayed that TIN.No.33241393219/2014-15, allotted to him, was found cancelled. Thereafter, upon further enquiry, from the Office of the respondent, it was confirmed that the respondent has cancelled the Registration Certificate of the petitioner.

4. It is the further case of the petitioner that subsequently, on further enquiry, it was found that the respondent has issued notice, dated 01.06.2015, claiming to be served on his place of business, but that was admittedly returned back to the respondent. He further submitted that the mandatory condition, under Section 39(7) of the TNVAT Act, 2006, of personal hearing, to be given to the petitioner, before cancellation of the Registration Certificate, has not been complied with. Facing other hardships, in view of the cancellation certificate, the petitioner has come to this Court, challenging the impugned order.

5. Learned counsel for the petitioner drawn the attention of this Court to the impugned order, to prove that the notice, dated 01.06.2015, issued by the respondent, has not been served upon the petitioner, either on the place of business or his residence. It is also brought to the notice of this Court that the respondent himself has admitted that the notice, dated 01.06.2015, issued to the place of business, had been returned back.

6. In support of his argument, learned counsel for the petitioner also placed reliance on Rule 19 of the Tamil Nadu Value Added Rules, 2007, which deals with the service of notices, summons or orders. According to him, as per Rule 19(1)(c) of the said Rules, a notice should be sent to the address of the dealer by registered post, which has not been properly followed.

7. It is, at this point of time, learned Government Advocate, appearing for the respondent, after taking instructions, fairly submitted before this Court that the record does not speak about any registered post, served upon the petitioner, either on the place of business or his residence.

8. As the controversy raised by the petitioner has come to an end that the respondent has not served any notice effectively on the petitioner and the petitioner was also not provided with a personal hearing, as contemplated under Section 39(7) of the TNVAT Act, the impugned order is liable to be quashed and accordingly, quashed.

9. Hence, the writ petition is allowed. The matter is remitted back to the respondent, for fresh consideration. The respondent is directed to issue fresh notice, if any, along with the details, required to be sent to the petitioner, for preparing his detailed reply. On receipt of the same, it is for the petitioner to submit his detailed reply to the respondent and thereafter, the respondent shall give a personal hearing to the petitioner and consider the matter, on merits.

10. In the result, the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

skm

To

The Assistant Commissioner (CT),
Saligramam Assessment Circle,
No.21, G.K.Industrial Estate,
Alapakkam, Chennai 600 116.

1 cc to Spl.G.P. (Taxes), Sr. 33299
1 cc to Mr.N. Murali, Advocate, Sr. 33101

W.P.No.18816 of 2015

RV (CO)
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