IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2015

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.21190 of 2015

M/s.Arvind Tiles,
represented by its partner,
Mr.Jesaram Malli,
Old No.28, New No.58,
Nambuliar Street,
Sowcarpet, Chennai - 600 079. .. Petitioner

vs.

The Assistant Commissioner (CT),
O/o.The Assistant Commissioner (CT),
Vallalar Nagar Assessment Circle,
"Kanniaga Parameswari Building",
No.116, Angappa Naicken Street,
Chennai - 600 001. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing Respondent to unlock the User ID and permit the petitioner firm to use the Commercial Taxes Department web-portal.

For petitioner : Mr.N.Senthil Kumar
For respondent : Mr.Manoharan Sundaram
Additional Government Pleader (Taxes)

ORDER

Mr.Manoharan Sundaram, learned Additional Government Pleader (Taxes),takes notice for Respondent.

2. This Writ Petition has been filed by M/s.Arvind Tiles, Chennai seeking for a writ of mandamus directing the respondent to unlock the User ID and permit the petitioner firm to use the Commercial Taxes Department web-portal.

3. Learned counsel appearing for the petitioner would submit that the petitioner firm is a dealer registered with the respondent Assessment Circle under TNVAT Act 2006 and CST Act, 1956. The petitioner claims to have filed monthly returns as specified under section 21 of the TNVAT Act 2006 regularly and paid VAT on the local

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sales after availing ITC on the purchases made within the State of Tamil Nadu. It is stated that the petitioner made two purchases of floor and wall tiles from one M/s.Victoria Enterprises, Chennai. The vendor had issued two Tax Invoices one bearing Invoice No.AA1007 dated 4.1.2013 for the basic value of Rs.7,20,000/- duly charging VAT at 14.5% amounting to Rs.1,04,400/- and another invoice bearing No.AA1011 dated 5.1.2013 for similar amount. While so, the respondent issued notice dated 17.3.2015 informing the petitioner that the Registration Certificate of one M/s.Victoriya Enterprises was cancelled with effect from 26.10.2010 since on verification, it was found by the Enforcement Wing that this dealer was only a bill trader and therefore, the claim of ITC based on the tax invoices issued by the said vendor amounts to contravention of section 19(15) and 19(16) of TNVAT Act,2006. The petitioner filed his objections to the notice on 24.3.2015. Subsequently, when the petitioner attempted to file returns and make payments for April 2015 through the web-portal, the petitioner came to know that the user ID of the petitioner firm has been locked and the petitioner is unable to file returns online for the months of April 2015 and May 2015. When the petitioner attempted to file manual returns for the months of April and May 2015 in the respondent assessment circle, it was not accepted. Ultimately, the petitioner sent the returns to the respondent by RPAD. In this background, the grievance of the petitioner is that on receipt of notice from the respondent dated 17.3.2015, he filed a detailed objection on 24.3.2015. Without issuing any prior notice or without hearing the petitioner, the respondent cannot unilaterally lock the User ID of the petitioner firm and as such, the act of the respondent is in violation of the principles of natural justice. Moreover, the respondent cannot act upon the retrospective cancellation of Registration Certificate of the Vendor as per various judgments of this Court. Therefore, the learned counsel for the petitioner sought for a direction to the respondent to unlock the User ID of the petitioner firm.

4. Heard both sides and perused the records.

5. This Court, in similar circumstances, has held that the respondent cannot act upon the retrospective cancellation of Registration Certificate of the vendor vide judgments reported in (2013) 59 VST 256 (Mad) in Jinasasan Distributor vs. Commercial Tax Officer (CT), Chintadripet Assessment Circle, Chennai; (2013) 60 VST 283 (Mad) in Sri Vinayaga Agencies vs. Assistant Commissioner (CT), Vadapalani-I, Assessment Circle; 2014-VIL-344-MAD in Madinfiniti Wholesale Limited vs. the Assistant Commissioner (CT); un reported jdugment dated 28.4.2015 in W.P.No.12493 of 2015 in All India Metal Alloys vs. The Assistant Commissioner (CT), Broadway Assessment Circle and judgment dated 30.4.2015 in W.P.Nos.3384 and 3385 of 2015 in V.R.Nachimuthu (CBE) vs. The Assistant Commissioner (CT) Brough Road Erode. Following the said judgments, this Court is of the view that the action of the respondents as laid down by this Court in the aforesaid judgments is untenable.

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6. Therefore, the respondent is directed to unlock the User ID of the petitioner firm and permit the petitioner firm to use the Commercial Taxes Department web-portal for filing monthly returns. Accordingly, the Writ Petition is disposed of. No costs.

asvm

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Assistant Commissioner (CT),
O/o.The Assistant Commissioner (CT),
Vallalar Nagar Assessment Circle,
"Kanniaga Parameswari Building",
No.116, Angappa Naicken Street,
Chennai - 600 001.

+ 1 cc to Mr.N.Senthil Kumar, Advocate SR 39497

+ 1 cc to Special Government Pleader (T) SR 39978

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