IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.Nos.25504 and 25505 of 2015

M/s.Ferrous and Alloys ... Petitioner
in W.P.No.25504/15]
Rep. by its partner
SF.No.1270/1
Kelamangalam Road
Near Fiem Auto
Achettipalli, Hosus-635 109.

M/s. Indian Ispat ... Petitioner in
W.P.No.25505/15]
Rep. by its partner
Shop No.1B Sy.No.926/1B
Near Luk India Rayakotta Road
Sanachandiram Village Hosur-635 109.

Vs

The Assistant Commissioner (CT)(FAC)
Hosur South, Hosur. ... Respondent

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of Certiorarified mandamus to call for the records of the respondent in TIN: 33676296866/2015-16 and TIN: 33766296865/2015-16 respectively dated 15.06.2015 Signed on 15.07 2015 and quash the same as illegal and ultra virus to the principle of natural justice and further direct the respondent to restore the registration number under TNVAT Act 2006 and CST Act 1956.

For petitioners : Ms.C.Rekha Kumari
For respondent : Mr.S.Manohar Sundaram, AGP (T)

COMMON ORDER

Heard the learned counsel for the petitioners and the learned Additional Government Pleader (Taxes), who took notice for the respondent and with their consent, the writ petitions are taken up for disposal.

2. These writ petitions have been filed challenging the Cancellation of registration made in TIN: 33676296866/2015-16 and TIN: 33766296865/2015-16 respectively dated 15.06.2015.

3. The petitioners are registered dealers under TNVAT Act and CST Act. The registration certificate of the petitioners were cancelled on the ground that no business activity was carried on and their place is not sufficient to carry on their business. Since the scrutiny of monthly returns revealed certain doubts on the transaction, the place of business of the petitioners were inspected and based on the inspection, the respondent issued notice dated 10.06.2015, wherein, it is specifically averred that the premises of the petitioners were locked and no one wa available and no stocks were found. Strangely, in the impugned orders, the respondent admitted that the Manager of the respective firm was available during inspection. Further, the replies dated 16.06.2015 & 29.06.2015 and 29.06.2015 and 13.07.2015 respectively have not at all been considered before passing such orders of cancellation. Section 39 (14) and (15) of the TNVAT Act and the procedure contemplated have not been followed. Time and again this Court has held that reasonable opportunity must be provided before cancellation of registration. Hence, this Court is of the view that it would be appropriate to set aside the impugned orders.

4. Accordingly, the impugned orders of cancellation of registration of the petitioners dated 15.06.2015 are set aside and the matters are remitted back to the respondent to consider each and every one of the aspects as projected by the petitioners in their objections and thereafter to pass appropriate orders, after providing due opportunity of hearing to the petitioners. The date on which the petitioners to appear shall be intimated to them well in advance and on such appearance by the petitioners with necessary objections along with the documentary evidences, the assessing officer shall consider the same and pass appropriate order on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. In the meanwhile, the petitioners are permitted to file necessary returns manually.

The writ petitions are disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

rg

To

The Assistant Commissioner (CT)(FAC)
Hosur South, Hosur.

+2 cc to Mr.C.Rekha Kumari,Advocate(sr.43213)
+1 cc to The Government Pleader (sr.43606)

W.P.Nos.25504 and 25505 of 2015

GP(co)
cp 04/09/2015