IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.30660 of 2015
& M.P.No.1 of 2015

Tvl.S.R.Cartons India Private Ltd. [ Petitioner ]
Rep by its Director R.Shaffiullah
No.611/2-A Hosur Main Road
Kodiyur Palacode Taluk
Dharmapuri 636 808

Vs

The Commercial Tax Officer
Palacode (C) Assessment Circle
Palacode 636 808 Dharmapuri District [Respondent]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certorari to call for the records on the files of the respondent in Cancellation ID No. 428837735 dt 28.8.2015 and quash the same as being contrary to the principles of natural justice and that of the principle laid down by this Honourable Court in the judgment reported in (2013) 60 VST 530 (Mds) (Sukhi Iron & Steel Company Vs. Assistant Commissioner (CT) Thiruvanmiyur Assmt. Circle Chennai.

For petitioner : Mr.R.Senniappan
For respondent : Mr.S.Manoharan Sundaram, AGP (T)

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O R D E R

Heard the learned counsel for the petitioner and Mr.S.Manoharan Sundaram, learned Additional Government Pleader (Taxes) 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.428837735, dated 28.08.2015. On the ground of non production of PAN Card, the Registration Certificate of the petitioner came to be cancelled by the impugned order.

3. However, learned counsel for the petitioner submits that though notice dated 21.08.2015 was served on 28.08.2015 through registered post and acknowledgment due, on the same day, the impugned

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order came to be passed. The respondent ought to have passed the order only after completion of three days of service of notice. Hence, according to the petitioner 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. Without following the provisions of Section 39(14) & (15) of TNVAT Act, the respondent proposed to cancel the registration certificate of the petitioner for the reason of non production of PAN Card. Such exercise by the assessing authority for cancellation of the registration certificate is not supported by any legal provision. Hence, the impugned order is liable to be set aside.

5. In the result, the impugned order dated 28.08.2015, passed by the respondent is set aside. The writ petition is allowed. No costs. Connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

rg

To
The Commercial Tax Officer
Palacode (C) Assessment Circle
Palacode 636 808 Dharmapuri District

+1 cc to Mr.R.Senniappan, Advocate, sr.55769
+1 cc to The Special Government Pleader,(Taxes), sr.55758

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