IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2016

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.4234 of 2014
and
M.P.No.1 of 2014

Tvl. Medi Pharma
rep. by its Partner Lakshmi Narayan ... Petitioner

Vs.

The Assistant Commissioner (CT) FAC,
Moore Market (South) Assessment Circle,
191, NSC Bose Road, Waavoo Complex,
Chennai - 600 001. ... Respondent

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records of the respondent in TIN/33160361183/2013-2014, dated 28.11.2013, and to quash the same as illegal and arbitrary.

For Petitioner : Mr.P.R.Kumar

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader (Tax)

O R D E R

Heard Mr.P.R.Kumar, the learned counsel appearing on behalf of the petitioner, and Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) appearing for the respondent.

2. The petitioner was granted Registration as a Dealer, under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter, referred to as 'TNVAT Act') and Central Sales Tax Act, 1956.

3. A Show Cause Notice was issued to the petitioner, calling upon the petitioner to explain as to why the

Registration granted in their favour should not be cancelled. The petitioner did not respond to the said Notice, and this has resulted in an Order of Cancellation of the Registration. This Order is impugned in this Writ Petition.

4. In the impugned Order, it has been stated that the petitioner has not filed monthly returns.

5. In the Counter Affidavit, a stand has been taken by the respondent that there is no business activity done by the petitioner.

6. At the time, when the Writ Petition was entertained, Order of Stay has been granted on 14.02.2014, and the same is in force till date. The petitioner's submission is that, based on the Order of Stay, the petitioner has to file monthly returns and e-returns cannot be filed, since the Registration granted in their favour has not been restored, but, they have filed manual returns. Parallely, there was a Best Judgment Assessment Order, passed under the provisions of TNVAT Act, for the year 2013-14, dated 27.11.2013, and challenging the same, the petitioner has filed a Revision Petition before the Joint Commissioner. Considering the fact of the case and that the petitioner has not responded to the Show Cause Notice, this Court is of the considered view that, one more opportunity can be granted to the petitioner.

7. Accordingly, the petitioner is directed to treat the impugned proceedings as a Show Cause Notice, and submit their Reply/Objections within a period of two weeks from the date of receipt of a copy of this order, after which, the respondent shall afford an opportunity of personal hearing to the petitioner, and pass orders in accordance with law. Till then, the Order of Stay granted on 14.02.2014, shall continue. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sd

To

The Assistant Commissioner (CT) FAC,
Moore Market (South) Assessment Circle,
191, NSC Bose Road, Waavoo Complex,
Chennai - 600 001.

+1cc to Mr.P.R.Kumar, Advocate, S.R.No.62350
+1cc to the Special Government Pleader(T), S.R.No.62647

Writ Petition No.4234 of 2014

MSM(CO)
CA(24/11/2016)