IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.21200 of 2016
and
W.M.P.Nos.18123 of 2016

M/s.D M Wall System Company Private Ltd.,
Represented by its Director Mr.K.H.Shin
No.24, NH4, National Highway
(Behind Nagman Instruments)
Chembarambakkam, Chennai - 600 123. ... Petitioner

.Vs.

The Assistant Commissioner (CT)
Sriperumbudur Assessment Circle. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari and quash the order of the respondent dated 02.06.2015 in the impugned proceedings cancelling the VAT registration with TIN 33981663054 with effect from 01.04.2015.

For Petitioner : Mr.N.V.Balaji

For Respondent : Mr.S.Kanmani Annamalai,
Additional Government Pleader

ORDER

Heard Mr.N.V.Balaji, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondents and with the consent of the either side, the writ petition itself is taken up for final disposal.

2.The petitioner who is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) was granted registration with effect from 01.01.2007. It is admitted by the learned counsel for the petitioner that due to the loss in business, there were no activities and consequently, the petitioner did not file returns for the years 2013-14 and 2014-15.

3.While so, during the current year the petitioner appears to have secured some business and when he wanted to file the returns, he came to know from the website that his registration has been cancelled. Therefore, the petitioner addressed a letter to the respondent requesting the reason for such cancellation stating that they have not been issued any show cause notice before cancellation of the registration. It is only thereafter the respondent had intimated the petitioner that the registration has been cancelled for non-filing of the returns for the year 2013-14 and 2014-15.

4.The law on the subject is well settled as the statue as Section 39(15) of the TNVAT Act contemplates that such cancellation cannot be effected without issuing notice to the dealer. Admittedly, in the instant cases, no notice has been issued. Therefore, the impugned order of cancellation is bad in law.

5.Accordingly, the writ petition is allowed and the impugned order is quashed. The respondents are directed to restore the registration of the petitioner forthwith. Thereafter, it is open to the respondent to issue show cause notice to the petitioner and call for objections from the petitioner, afford an opportunity of personal hearing and pass fresh orders in accordance with law. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

pgp

To

The Assistant Commissioner (CT)
Sriperumbudur Assessment Circle.

+1cc to Mr.N.V.Balaji, Advocate, S.R.No.34371
+1cc to the Special Government Pleader(T), S.R.No.34862

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RP(CO)
CA(14/07/2016)