IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.2527 of 2016 and
W.M.P.No.2156 of 2016

M/s.Praveen Traders
rep by its Proprietor,
57/38, Malayaperumal Street,
Chennai - 600 001. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Kothawalchavadi Assessment Circle,
Chennai - 600 001. ... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records relating to the cancellation proceedings in TIN No.33346272167 dated 01.06.2015 and quash the illegal cancellation of registration with retrospective effect which is against the principles of law laid by the Supreme Court of India and direct the respondent to restore the sales tax registration certificate under TNVAT and CST Acts and direct the respondent to provide an opportunity of personal hearing to the petitioner.

For Petitioner : Mr.C.Baktha Siromoni
For Respondent : Mr.S.Kanmani Annamalai,
Additional Government Pleader (Tax)

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus to call for the records relating to the cancellation proceedings dated 01.06.2015 and quash the same and to direct the respondent to provide an opportunity of personal hearing to the petitioner.

2.It is the case of the petitioner that without affording an opportunity of personal hearing and without considering the documents, the respondent had passed the impugned order.

3.When the matter was listed for hearing on 27.01.2016, the learned counsel for the petitioner had produced all the copies of the records along with the acknowledgments for having submitted the same to the respondent.

4.Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) appearing for the respondent submitted that since the respondent had not considered the documents produced by the petitioner, the respondent may be directed to consider the documents and afford an opportunity of personal hearing and decide the matter afresh. The learned Additional Government Pleader (Tax) also submitted that liberty may be given to the Assessing Authority to invoke the provisions of Section 39(4) of the TNVAT Act.

5.Having regard to the submissions made by the learned counsel on either side, taking into consideration the fact that the respondent had not considered the documents produced by the petitioner and without affording an opportunity of personal hearing, I am of the view that the impugned order is liable to be set aside. Accordingly, the impugned order dated 01.06.2015 is set aside and the matter is remanded to the respondent for fresh consideration. The respondent is directed to consider the documents produced by the petitioner and after affording due opportunity of personal hearing to the petitioner, shall decide the matter afresh on merits and in accordance with law. In case of the Assessing Authority invoking the provisions of Section 39(4) of the TNVAT Act, it is open to the petitioner to defend the same in accordance with law.

6.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

va

To

The Assistant Commissioner (CT),
Kothawalchavadi Assessment Circle,
Chennai - 600 001.

+1cc to Mr.C. Baktha Siromoni, Advocate, S.R.No.15488
+1cc to the Government Pleader, S.R.No.15540

SNS(CO)
EU(14/03/2016)

W.P.No.2527 of 2016 and