IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.08.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.27171 of 2016
and
W.M.P.No.23330 of 2016

Sri Aiyanar Oil Company
rep. by its Partner P.B.Aiyanraj
102, CTH Road,
Thiruniravur - 602 024,
Thiruvallur District. ...Petitioner

Vs.

The Assistant Commissioner (CT)
Avadi Assessment Circle,
No.9, Second Street,
Kasturibai Nagar, Avadi,
Chennai - 600 054. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified mandamus to call for records of the respondent in TIN No.33401300011/2013-14, dated 30.03.2015 and to quash the same and to restore the registration granted under the Tamil Nadu Value Added Tax 2006, to the petitioner.

For Petitioner : Mr.A.Balasingh Ramanujam
For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader,

O R D E R

Heard Mr.A.Balasingh Ramanujam, learned counsel appearing for the petitioner, and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, accepting notice for respondents, and with their consent, the Writ Petition is taken up for final disposal.

2. The petitioner, who is a registered dealer, on the file of the respondent, under the provisions of Tamil Nadu Value Added Tax Act, 2006 (hereinafter, referred to as TNVAT Act') has filed this Writ Petition, challenging the proceedings, dated 30.03.2015, passed by the respondent, cancelling the petitioner's Registration Certificate, granted to them on 19.01.2007.

3. The petitioner is a dealer in Kerosene, and they applied for the grant of certificate of registration, which was granted on 19.01.2007, with effect from 01.01.2007. The certificate shows the

principal place of business of the petitioner as " 102, CTH Road, Thiruninravur - 602 024" and the additional place of business as "413, CTH Road, Pattabiram, Chennai - 72". The petitioner has been filing yearly returns, and when they filed returns for the year 2013-14, the respondent issued a pre assessment notice on 17.04.2015, stating that the petitioner is a registered dealer in his Office, and they have filed Form WW, and on verification of the same, certain defects were noticed, and the petitioner was called upon to produce documents in that regard. When the petitioner submitted their reply on 13.05.2015, by appearing before the respondent, they were asked to receive the copy of the impugned order, dated 30.03.2015, stating that, his registration has been cancelled, that too, with effect from 01.04.2013.

4. On perusal of the impugned order, it shows that the same was not served to the petitioner, and it is sent to different address at Avadi, which is neither the principal place of business of the petitioner, nor their additional business place. That apart, when the pre-assessment notice for the year 2013-14 was sent to the additional place of business of the petitioner at Pattabiram, this Court is at loss to understand, as to how, the impugned proceedings could have been addressed to the petitioner in different address, being Avadi, Chennai - 600 054, which is neither the petitioner's principal business premises, nor, their additional business premises. In any event, the impugned order has been passed in violation of principles of natural justice, and the retrospective cancellation of the registration is also bad in law. That apart, while issuing pre-assessment notice, dated 17.04.2015, the petitioner has been described as registered dealer on the file of the respondent. Therefore, it is clear that the impugned order is outcome of the total non application of mind. Apart from that, the contention that petitioner has not filed returns for the year 2013-14 is also thoroughly incorrect, since the respondent has accepted the returns and examined the same, and found certain defects and he has issued pre- assessment notice on 17.04.2015. All the above would clearly show that the impugned order is wholly untenable and illegal.

5. In the result, the Writ Petition is allowed, the impugned order stands quashed, and the respondent is directed to restore the petitioner's registration on file within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner (CT)
Avadi Assessment Circle,
No.9, Second Street,
Kasturibai Nagar, Avadi,
Chennai - 600 054.

+1 cc to Spl.Govt.Pleader,sr.44458

+1 cc to Mr.A.Balasingramanujam, advocate,sr/44718.

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