

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2016

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.42857 of 2016

And

W.M.P.No.36754 of 2016

M/s.Timek Agencies

Rep. by its Proprietor

... Petitioner

Vs.

Assistant Commissioner (CT),
Saidapet Assessment Circle,
Chennai - 600 015.

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the proceedings of the cancellation of registration orders published in the departmental intra-net by the respondent during the period 01.04.2016 to 04.10.2016 based on the computer generated order published in the WEB Site by the respondent under TNVAT Act online order in TIN No. 33086223713 dated 06.10.2016 and quash the same and direct the respondent to restore the sales tax registration under TNVAT and CST Act.

For Petitioner : Mr.C.Bakthasiromoni

For Respondent : Mr.S.Kanmani Annamalai

Additional Government Pleader (Taxes)

O R D E R

1.On the previous date i.e., 08.12.2016, I had asked the counsel for the respondent to take instructions in the matter. On that date, Mr.K.Venkatesh, learned Government Advocate, had appeared for the respondent.

2.Today, however, Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes), appears for the respondent. Learned counsel says that he has taken instructions in the matter and therefore, will argue based on the record.

3.With the consent of counsels for the parties, the writ petition is taken up for hearing.

4.The only grievance of the petitioner in the present action is that, his sales tax registration was cancelled by the

respondent in exercise of powers under Section 39(14) of the Tamil Nadu Value Added Tax Act, 2006 (in short, 2006 Act), in breach of the principles of natural justice.

5. In support of his submission, the learned counsel for the petitioner relies upon the provisions of Section 39(15) of the 2006 Act. For the sake of convenience, the aforementioned provisions are extracted hereunder:

"Section 39(14): The authority granting the certificate of registration may, by order, for good and sufficient reasons to cancel, modify or amend any certificate of registration granted by it.

Section 39(15): No application for registration or for a copy or duplicate of the certificate under this section shall be refused and no order under sub-section (14) shall be made, unless the dealer concerned has been given an opportunity of being heard."

6. Pertinently, it is the stand of the petitioner that he has not been served with the impugned order and that he came to know of the cancellation of his registration upon by downloading the information from the internet.

7. For this purpose, counsel for the petitioner has relied upon page no.25 of the typed set of the documents. A perusal of the said document would show that registration of several dealers stands cancelled, which includes, the petitioner herein.

8. Counsel for the respondent says that his instructions are to the effect that even though notice was sent to the petitioner for hearing, the same was returned with the endorsement that the petitioner had left from the given address.

9. Counsel for the petitioner says, that the petitioner has received no such notice.

10. There is however, nothing record before me, which would support the contention of the respondent.

11. In any case, even what is stated by the learned counsel for the respondent is accepted, clearly, the petitioner had no knowledge of the notice.

12. According to me, an attempt ought to have been made to serve the petitioner with the notice seeking his view in the matter as to whether or not, he wanted a personal hearing in the matter.

13. Therefore, having regard to the facts and circumstances obtaining in the case, I am inclined to quash the order dated 31st October, 2016, whereby the petitioner's registration stands cancelled.

14. Needless to say, the respondent will be at liberty to initiate fresh proceedings, if necessary, having regard to the provisions of Section 39(15) of the 2006 Act. In terms of the said provision notice is required to be issued before taking any steps towards cancellation of registration of a dealer. It would suffice, if the respondent would direct the notice to the address stated to be available in its record. In addition the respondent shall also direct the notice to the address given in the writ petition. Furthermore, respondent shall retain proof of despatch of notice.

15. The writ petition is disposed of with the aforesaid directions. No costs. Consequently, connected pending application is closed.

Sd/-
Asst. Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner (CT),
Saidapet Assessment Circle,
Chennai - 600 015.

+1 cc to Spl. Govt. Pleader, sr. 72681.

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