IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2016

CORAM

THE Hon'ble Mr.JUSTICE M. DURAISWAMY

W.P.No.5422 of 2016
and
WMP No.4721 of 2016

Tvl.Kwality Cones,
rep by its Partner,
C. Parthiabaraja,
No.18, Kuppan Street,
Periyamodachur,
Gobichettipalayam - 638 476 .... Petitioner

vs

The Commercial Tax Officer,
Gobichettipalayam,
Erode District
..... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari to call for the records of the respondent in TIN No.33682963892/2012-2013 dated 21.01.2015 and quash the same as illegal, arbitrary and against the provisions of the Act.

For petitioners : Mr.K. Soundararajan
For respondents : Mr.S. Manoharan Sundaram AGP (T)

ORDER

The petitioner has filed the above writ petition to issue a Writ of Certiorari to call for the records of the respondent in TIN No.33682963892/2012-2013 dated 21.01.2015 and quash the same as illegal, arbitrary and against the provisions of the Act.

2. It is the case of the petitioner that they were doing business for the Assessment Year 2012-2013 with Tvt.Sri Annalakshmi Paper Cones, Coimbatore and claimed ITC for the business done with the said Dealer for the Assessment Year 2012-2013.

3. Further, according to the petitioner, the respondent by the impugned order dated 21.01.2015, rejected the claim of ITC by the petitioners, stating that the petitioners were made purchases with the said Dealer, whose Registration Certificate was cancelled with effect from 31.01.2012. That apart, the petitioners also contended that from the letter dated 21.06.2013, given by the said Dealer viz., Tvl. Sri Annalakshmi Paper Cones to the respondent, it could be seen that the said Company was in existence and the said dealer was doing business upto 21.06.2013.

4. On a perusal of the impugned order, it could be seen that the respondent had passed the order retrospectively, which is against the provisions of law. In the Judgment reported in 2013 (59) VST 256 (Mad) (Jinsasan Distributors vs Commercial Tax Officer (CT), Chintadripet Assessment Circle, Chennai, this Court held that subsequent retrospective cancellation of registration certificates of selling dealers cannot affect right of purchasing dealers. The ratio laid down by this Court in the judgment cited supra squarely applies to the facts and circumstances of the present case.

5. Mr.S.Manoharan Sundaram, learned Additional Government Pleader, appearing for the respondent, submitted that the relief sought for in the writ petition, is covered by the decision of this court reported in 2013 (59) VST 256 (Mad) (Jinsasan Distributors vs Commercial Tax Officer (CT), Chintadripet Assessment Circle, Chennai.

6. Following the ratio laid down in the said judgment, the impugned order dated 21.01.2015, passed by the respondent, is liable to be set aside and accordingly the impugned order is set aside and the writ petition is allowed. No costs. Consequently, connected MP is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sr
To

The Commercial Tax Officer,
Gobichettipalayam,
Erode District

+1 cc to Mr.K.Soundarajan Advocate sr.11040/16
+1 cc to Special Government pleader(Taxes) sr.10865/16

W.P.No.5422 of 2016

aa27/02/2016