BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD).No.16387 of 2016
and
W.M.P.(MD).No.11980 of 2016
****

M/s.Raja Agencies,
rep. By its Properitor Mr.T.Subramania Raja,
S.No.31/1Na,S.No.31/1, Kadambur,
Kovilpatti Taluk,
Tuticorin District. ... Petitioner

Vs

1.The State of Tamil Nadu,
rep. By its Secretary to Government,
Department of Commercial Taxes and Registration,
Fort St. George, Chennai-09.
2.The Commissioner of Commercial Taxes,
2nd Floor, Elilagam, Chepauk,
Chennai-05.
3.Commercial Tax Officer (CIRCLE)
Commercial Taxes Building,
Ettayapuram(C)
Tuticorin District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari to call for the records relating to the impugned order passed by the 3rd respondent in cancellation of the TIN No of the Petitioner in ID.10101030018629 dt.11/07/2016 downloaded from the department web site on 09.08.2016 and quash the same.

For petitioner : Mr.M.Md.Ibrahim Ali
For Respondents : Mr.R.Karthikeyan
Additional Government Pleader

ORDER

The petitioner has been issued with the impugned order of cancellation dated 11.07.2016, downloaded from the department website on 09.08.2016, issued by the third respondent, Commercial Tax Officer, Tuticorin, without following the provisions contemplated under Section 39(15) of the Tamil Nadu Value Added Tax Act, 2006.

2.The learned counsel for the petitioner submitted that the petitioner is an assessee under the third respondent. He has been paying NIL tax to the respondents. Whileso, the third respondent, all of a sudden, cancelled the TIN Number, without giving any opportunity whatsoever to the petitioner under Section 39(15) of the Tamil Nadu Value Added Tax Act, 2006. He also brought to the notice of this Court only an order issued on 11.07.2016, i.e no notice whatsoever has been issued inviting the petitioner to submit this objection/explanation or for personal hearing.

3. Heard Mr.R.Karthikeyan, Learned Additional Government Pleader, who takes notice on behalf of the respondents submitted that the third respondent has got sufficient power under Section 39(15) of the Tamil Nadu Value Added Tax Act, 2006 to cancel the TIN Number, by citing various reasons.

4.In this regard, the learned counsel for the petitioner has relied on an order of this Court, wherein, this Court has also passed an order in W.P.No.13650 of 2015, 09.06.2015, finding fault with the similar approach adopted by the respondent therein for cancelling the registration number, without following the procedures contained under Section 39(14) of the Tamil Nadu Value Added Tax Act, 2006.

5. In reply, the learned Additional Government Pleader further submitted that liberty may be given to the third respondent to issue fresh notice, by giving sufficient time, to the petitioner to file his explanation/reply/objection.

6.In these facts and circumstances of the case, this Court is of the view that admittedly, the petitioner being an assessee under the third respondent, all of a sudden, the third respondent, without even giving any notice or an opportunity of personal hearing, arbitrarily, cancelled the TIN Number of the petitioner. This is contrary to the well-settled legal proposition of Law. Since no opportunity whatsoever has been given to the petitioner, the impugned order passed by the third respondent, dated 11.07.2016 is set aside and the writ petition stands allowed. Liberty is granted to the third respondent to issue fresh notice to the petitioner calling for reply, objection or explanation if any. If any objection/explanation/reply is filed, the third respondent is directed to consider the same, by following the procedures contained under Section 39(15) of the Tamil Nadu Value Added Tax Act, 2006. It is needless to mention that the third respondent shall also provide an opportunity of personal hearing to the petitioner, before passing any orders. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

1.The Secretary to Government,
State of Tamil Nadu,
Department of Commercial Taxes and Registration,
Fort St. George, Chennai-09.

2.The Commissioner of Commercial Taxes,
2nd Floor, Elilagam, Chepauk,
Chennai-05.

3.Commercial Tax Officer (CIRCLE)
Commercial Taxes Building,
Ettayapuram(C)
Tuticorin District.

+One cc to M/s.Mohamed Ibrahim Alli, Advocate, SR.No.48769

vs
RL/5C/3P/CK/16/9/2016

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