

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.7292 of 2017

and

WMP.No.7945 of 2017

Senthil Pharma Agencies
Represented by its Partner S.Elango
27-K, Narashima Aasari Road (South)
Dharmapuri, Dharmapuri District. Petitioner

Vs.

The Assistant Commissioner (CT)
Dharmapuri Assessment Circle,
Dharmapuri. Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records on the files of the respondent in NA.KA.202/2017/A2 dated 06.03.2017 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice and further direct the respondent to effect the change of Constitution in FORM D of the Certificate of Registration in Taxpayer Identification Number (TIN) 33953281273 as partnership firm as requested vide representation dated 03.03.2017.

For Petitioner: Mr.R.Senniappan

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader (Tax)

O R D E R

Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax), takes notice for the respondent. By consent of the parties, the main writ petition itself is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the order of the respondent dated 06.03.2017 rejecting the request of the petitioner to change the registration from the proprietorship concern to the partnership firm.

3. It is stated that the petitioner is a wholesale dealer in drugs and medicines and an assessee on the file of the respondent. Though the VAT registration was made in the name of one P.Venkatesan, who is one of the partner of the petitioner's firm, the petitioner was functioning as a partnership firm. However, since the registration stands in the name of individual, the petitioner wanted to rectify such mistake, for which, partners have filed the application seeking for transfer of registration from individual name to the partnership firm. The said reason was rejected by the respondent, by passing the impugned order.

4. The learned counsel appearing for the petitioner submitted that a similar issue was considered by this Court in W.P.No.24587 & 24588 of 2015 dated 30.09.2016 and allowed those writ petitions.

5. The learned Additional Government Pleader (Tax) fairly submitted that when the petitioner wants change of registration in the name of partnership firm from the proprietorship, there cannot be any impediment for the department concerned, to consider the same.

6. On perusal of the impugned order, it is seen that the respondent has not stated any legal impediment for making such change. Therefore, I am of the view that the request of the petitioner has to be considered in the light of the order made in WP Nos.24587 & 24588 of 2015 dated 30.09.2016.

7. Accordingly, this writ petition is allowed and the impugned order is set aside and the matter is remitted back to the respondent to consider the request of the petitioner and pass appropriate orders in the light of the order passed in WP Nos.24587 & 24588 of 2015 dated 30.09.2016. Such exercise shall be done by the respondent within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

To
The Assistant Commissioner (CT)
Dharmapuri Assessment Circle, Dharmapuri.
+1 cc to Mr.R.Senniappan, advocate, sr.18460
+1 cc to Spl.Govt.Pleader, sr.18734.
vgn(co)
krd 5/4

W.P.No.7292 of 2017