IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.04.2017

CORAM

THE HONOURABLE MR.JUSTICE RAVICHANDRABAABU

W.P.No.7985 of 2017
and
W.M.P.No.8726 of 2017

M/s. Danly (India) Pvt Ltd.,
Rep by its Director Mr. S. Retnarajan,
Plot No. S.35 & 36, Na. Phase III,
SIPCOT Industrial Complex,
Mukundharayapuramwalaja, Tk.
Vellore.632 405. ... Petitioner

vs.

The Assistant Commissioner (CT)
Ranipet [SIPCOT] Assessment Circle
17 C, M.F.Road, Navalpur
Ranipet.632 401. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records on the files of the respondent dated 15.02.2017 canceling the petitioner registration in TIN number 33104364503 through cancellation ID 10101199940905 dated 30.01.17 and quash the same being violated the principles of natural justice, illegal, invalid and against the law and also law laid down by this Honourable Court.

For Petitioner : Mr.D. Vijayakumar

For Respondents : Mr.K.Venkatesh,
Government Advocate.



O R D E R

Mr.K.Venkatesh, learned Government Advocate, takes notice for the respondent and by consent of the parties, the main writ petition itself is taken up for final disposal.

2. The petitioner is aggrieved against the order of the respondent dated 30.01.2017 cancelling the registration under the Tamil Nadu VAT Act, 2006 and Central Sales Tax Act, 1956.

3. The main grievance of the petitioner is that the impugned order of cancellation was passed without following the principles of natural justice and without assigning any reasons for such cancellation. Learned counsel for the petitioner invited my attention to the impugned order and pointed out that the same does not contain any reason except to state that the cancellation of registration was approved. He further submitted that the petitioner was not served with a show cause notice and however, a notice dated 30.01.2017 referred to in the impugned order was not sent to the petitioner in any other mode except by way of e-notice. He further pointed out that the petitioner, in fact, has furnished the returns on 08.02.2017.

4. On the other hand, the learned Government Advocate submitted that before passing the impugned order, the petitioner was put on notice through e-mail communication dated 30.01.2017 and that the petitioner has not furnished any explanation to such notice. Therefore, he contended that the respondent has passed the order of cancellation since the petitioner failed to respond to the show cause notice. Even though, he made such submission, he fairly admitted to the position that the impugned order does not discuss the reasons for cancelling the registration.

5. Heard both sides.

6. The petitioner is aggrieved against the order of cancellation of registration. No doubt, the impugned order referred to a notice dated 30.01.2017 said to have been sent through e-mail. A perusal of the said notice would show some reasons for the proposed action. According to the petitioner, as they were not aware of such issuance of notice,they were not in a position to file their explanation. However, a perusal of the impugned order does not show as to on what reasons the cancellation was effected even though some reasons were stated in the show cause notice. Assuming that the petitioner has received such notice and has not responded to the same, still the respondent is duty bound to state the reasons and his independent finding, justifying the cancellation. In this case, it has not been done so. Therefore, I am of the view that the matter has to go back to the respondent for passing a fresh order after hearing the objections of the petitioner as well.

7. Accordingly, the writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the respondent for passing fresh order after hearing the objections of the petitioner which shall be filed by the petitioner within a period of seven days from the date of receipt of a copy of this order. On receipt of such objection, the respondent shall pass a fresh order after giving due opportunity of personal hearing to the petitioner. Such exercise shall be done by the respondent within a period of two weeks from the date of receipt of the explanation from the petitioner.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Assistant Commissioner (CT)
Ranipet [SIPCOT] Assessment Circle
17 C, M.F.Road, Navalpur
Ranipet.632 401.

+ 1 cc to Mr.Vijayakumar, Advocate Sr.20367
+ 1 cc to Special Government Pleader Sr.20584

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MG(CO)
EU 6.4.17