

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.32498 of 2017
and W.M.P.No.35817 of 2017

Noor Gulab Shariff

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary,
Finance Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Commercial Tax Officer,
Thiruvallikeni Assessment Circle,
Chennai - 600 028.

3.The Deputy Commissioner (CT),
Zone VII,
Chennai - 600 006.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent's order dated 23.08.2017 made in PDL 178/2015/A2 to quash the same and consequently direct the 2nd respondent to restore the petitioner's registration and permit the petitioner to file E>Returns regularly for his business named and styled as "Kwality Auto Accessories" situated in "Jayapradha Theatre Complex" at Old No.37 and 38 (New No.67), G.P.Road, Chennai-600 002.

For Petitioner : Mr.M.N.S.Mohamed Habeeb Raja
For Respondents : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.M.N.S.Mohamed Habeeb Raja, the learned counsel appearing for the petitioner and Mr.K.Venkatesh, the learned Government Advocate appearing for the respondents.

2.The petitioner is the tenant in respect of the premises where there is a dispute between the landlord and the tenants. On account of the on-going dispute, the registration obtained by the petitioner under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) was cancelled. Another tenant in the same premises, by name, Mr.K.Majeed Basha approached this Court in W.P.No.26678 of 2017 challenging the very same impugned order and the said writ petition was allowed by order dated 13.10.2017. The operative portion of the order reads as follows:

3.Learned counsel for the petitioner submits that till date no application has been filed for eviction before the Rent Controller. In the suit, the petitioner had filed I.A.No.16929 of 2015 for an order of temporary injunction. The said application was contested and it is stated that the City Civil Court has granted an order of injunction as prayed for on 13.10.2017, the certified copy of which is yet to be made ready.

4.Further, it is submitted that the petitioner has filed RCOP No.1753 of 2015, before the XI Small Causes Court, Chennai, under Section 8(5) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1974 and the petitioner has deposited rent into the Court and the matter is pending trial. In the factual scenario, the position of the petitioner is litigious and obviously the petitioner cannot produce a valid rental agreement from the owners of the property on account of the on-going litigation. Therefore, the entire premise based on which the impugned proceedings were issued is unsustainable in law.

5.For the above reason, this writ petition is allowed, the impugned order is quashed and the Commercial Tax Officer, Thiruvallikeni assessment circle, viz., the third respondent, is directed to restore the petitioner's registration and permit the petitioner to file E-returns regularly. It is well open to the Department to proceed further in accordance with law, if still a need arises, after the termination of the suit proceedings. No costs. Consequently, connected miscellaneous petition is closed.

3.Learned Government Advocate appearing for the respondents does not dispute the submission of the learned counsel appearing for the petitioner and would submit that the order passed in the case of K.Majeed Basha has been complied with and the registration has been restored.

4.Thus, following the above order, this writ petition is allowed, the impugned order is quashed and the Commercial Tax Officer, Thiruvallikeni assessment circle, viz., the second respondent, is directed to restore the petitioner's registration and permit the petitioner to file E-returns regularly. It is well open to the Department to proceed further in accordance with law, if still a need arises, after the termination of the suit proceedings. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

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To

- 1.The Secretary,
Finance Department,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The Commercial Tax Officer,
Thiruvallikeni Assessment Circle,
Chennai - 600 028.
- 3.The Deputy Commissioner (CT),
Zone VII,
Chennai - 600 006.

+1cc to Mr.M.N.Mohammed Habeeb Raja, Advocate SR.No.89206
+1cc to Special Government Pleader SR.No.89487

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VGI (CO)
GN(19/01/2018)

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