IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.24003 of 2017
and
W.M.P.No.25315 of 2017

Tvl.S.P.Rotary Prints,
Represented by its Partner S.Selvarani,
No.5/13/A3, Chettiarthottam,
Avinashilingampalayam, Palangarai,
Avinashi, Tirupur District. ... Petitioner

Vs

1. The Assistant Commissioner(CT)
Avinashi Assessment Circle,
Avinashi, Tirupur District.

2. The Assistant Commissioner(CT),
Central II Assessment Circle,
Tirupur. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records on the file of the 1st respondent in Na.No.1242/2016/A2 dated 12.06.2017 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice and that of the principle laid down by this Honourable Court in the judgment reported in (2007) 295 ITR 303 (Mds) (V.Selladurai Vs. Chief Commissioner of Income Tax (OSD) and another)

For Petitioner :Mr.R.Senniappan

For Respondents :Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

Heard Mr.R.Senniappan, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader accepting notice on behalf of the respondents.

2. The petitioner is a registered dealer on the file of the first respondent under the provisions of Tamil Nadu Value Added Tax Act, 2006 (in short "TNVAT Act"). In this writ petition, the petitioner is aggrieved by notice dated 12.06.2017 issued by the first respondent, cancelling the petitioner's registration under the said Act. On a perusal of the impugned notice, it is seen that it has been issued based on a recommendation made by the second respondent. Even assuming that there is a reasonable cause for cancelling the petitioner's registration, the statute mandates that a show cause notice should be issued and without issuing such show cause notice if any order of cancellation is passed, it will be in violation of Sections 39(14) and 39(15) of the TNVAT Act. When there is such a mandatory requirement, the first respondent ought not to have straightaway cancelled the petitioner's registration, solely, based upon the recommendation given by the second respondent. On a further reading of the impugned notice, it is seen that an objection has been given by one Tmt.Udhaya Chandrika by her letter dated 11.05.2017. The nature of objection is conveyed by the said Tmt.Udhaya Chandrika has not been intimated to the petitioner. The Impugned order having been passed without issuing notice to the petitioner is in clear violation of the principles of natural justice, especialy, when there is a mandatory requirement under the provisions of the Act to issue a notice before cancellation of registration. The above grounds are sufficient to interfere with the impugned order.

3. Accordingly, the writ petition is allowed and the impugned order is set aside and the respondents are directed to restore the petitioner's registration forthwith. After the registration is restored, the first respondent is directed to issue show cause notice to the petitioner, call for objections and afford them an opportunity of personal hearing and pass fresh orders on merits and in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

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To

1. The Assistant Commissioner(CT)
   Avinashi Assessment Circle,
   Avinashi, Tirupur District.

2. The Assistant Commissioner(CT),
   Central II Assessment Circle,
   Tirupur.

+1cc to Special Government Pleader Sr. 64645
+1cc to Mr.R.Senniappan, Advocate Sr. 64722

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and
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AR(V)
VR(11/09/2017)