IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2017

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.15356 of 2017
and
WMP Nos.16650 & 16651 of 2017

M/s.Sam Exports
Represented by A.Shrinivasan
Partner
19, Kumili, Mettupalayam,
Kannivakkam, Chengalpet. ... Petitioner

Vs.

The Assistant Commissioner (CT)
Chengalpattu Assessment Circle,
16A, First Floor, Anna Nagar,
Chengalpattu. .. Respondent

Prayer:
Writ petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records on the files of the respondent in cancellation ID:10101175903605 dated 23.01.2017 and consequent order in Pdl.178/2014/A2 dated 13.04.2017, received on 15.05.2017, and quash the same as being invalid and illegal and contrary to the provisions of the Tamil Nadu Value Added Tax Act, and further direct the respondent to restore the registration certificate of the petitioner and also activate the Taxpayer Identification Number (TIN) of the petitioner in the website of the commercial taxes department.

For Petitioner: Mr.C.Venkatraman
For Respondent : Mr.K.Venkatesh
learned Government Advocate.

O R D E R

Mr.K.Venkatesh, learned Government Advocate, takes notice on behalf of 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 by the order dated 23.01.2017 and 13.04.2017 through which the petitioner's registration was cancelled twice by the respondent, one on the reason that the petitioner did not file monthly returns consecutively for three months and another on the reason that the petitioner is not doing their business at the place to which the registration certificate was given.

3. The learned counsel appearing for the petitioner submitted that there was only one show cause notice dated 07.01.2017 issued on the petitioner, which only indicates the reason for proposed cancellation as non-filing of the monthly returns for three consecutive months. It is their further contention that no other reason is stated in the said show cause notice and no other notice was also issued by the respondent indicating the allegation as though the petitioner is not doing their business at the place of business. It is his submission that both the reasons stated in the impugned orders are wrong, since the petitioner is regularly filing the monthly returns through e-filing and therefore, there is no default. Likewise, it is his further submission that the petitioner is regularly doing his business at 19, Kumili, Mettupalayam, Kannivakkam, Chengalpet, the place to which the certificate of registration was issued. Therefore, he submitted that a confusion in the mind of the respondent has resulted in passing the erroneous impugned orders.

4. The learned Government Advocate fairly submitted that so far as the second order dated 13.04.2017 is concerned, it was not preceded with any show cause notice indicating the reason set out in the order. Insofar as the contention of the petitioner that they are filing monthly returns consecutively, the learned Government Advocate submitted that the issue will be re-considered by the respondent on perusal of the records.

5. Heard both sides.

6. It is seen that before passing the impugned order dated 23.01.2017, the petitioner was served with a notice on 07.01.2017. No doubt that against the reason set out in the said notice, the petitioner has not replied. But perusal of the impugned order dated 23.01.2017 would show that the respondent has not given any finding on the reason set out in the impugned notice as to what are the three consecutive months in which the petitioner did not file their monthly returns. Needless to say that such allegation is vague to which the petitioner can hardly be excepted to file any effective reply. Likewise, the other order dated 13.04.2017 indicated some other reason viz., that the petitioner is not doing the business at the place of business. Admittedly, that was not the reason set out in the

original notice dated 17.01.2017 and therefore, the respondent is not justified in passing the second order setting out some other reason for cancellation. Therefore, I am of the view that both the orders cannot be sustained and the respondent has to proceed against the petitioner afresh, if there are reasons to do so. Accordingly, the writ petition is allowed and the impugned orders are set aside. It is open to the respondent to proceed against the petitioner for cancellation of the registration by following due process of law, if any justifiable reason is available for the respondent to do so. Since, this Court has set aside the impugned orders, the respondent shall restore the registration forthwith. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To
The Assistant Commissioner (CT)
Chengalpattu Assessment Circle,
16A, First Floor, Anna Nagar,
Chengalpattu.

+1 CC to Mr.C. Venkatraman, Advocate sr 42794

W.P.No.15356 of 2017

SV(CO)
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