In the High Court of Judicature at Madras

Dated : 01.11.2017

Coram

The Honourable Mr.Justice T.S.SIVAGNANAM

W.P.Nos.26861 & 27259 of 2017 &
WMP.Nos.28604, 29108 and 29109 of 2017

M/s.Bhavanimatha Electrical &
Hardwares rep.by its Proprietor
R.Bhawarlal ...Petitioner in Both Wp's

Vs

The State Tax Officer,
Sathyamangalam. ...Respondent in Both Wp's

PETITIONS under Article 226 of The Constitution of India praying for the issuance Writs of Certiorari to call for the records of the respondent (i) vide TIN : 33382982293/2011-12 and quash the impugned order dated 23.8.2017 (WP.No.26861 of 2017) and (ii) vide TIN : 33382982293 and quash the impugned order dated 12.7.2011 (WP.No.27259 of 2017).

For Petitioner : Mrs.Hema Muralikrishnan
For Respondent : Mr.S.Kanmani Annamalai, AGP

COMMON ORDER

Heard both.

2. The petitioner, which is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, is dealing in electrical and hardware items. The petitioner is aggrieved by the cancellation of its registration dated 12.7.2011 with effect from 31.3.2011 as well as the assessment order dated 23.8.2017.

3. Record of the proceedings shows that before issuing the impugned cancellation order dated 12.7.2011, no notice was issued to the petitioner. Section 39(15) of the said Act mandates that before cancellation of registration of a dealer, for good and sufficient reasons, the dealer has to be given an opportunity of being heard. The respondent does not deny the fact that no such opportunity was given to the petitioner before canceling the dealership.

4. The only averment made in the assessment order dated 23.8.2017 (the order impugned in W.P.No.26861 of 2017) is that the dealer has taken another registration, that they are filing e-returns only for the new registration certificate and that therefore, the petitioner had knowledge about the cancellation of the old registration certificate. This observation made by the Assessing Officer will not cure the statutory defect, which has occurred while effecting the order of cancellation. Therefore, necessarily the order of cancellation of the petitioner's registration certificate has to be set aside.

5. In the result, W.P.No.27259 of 2017 is allowed and the order of cancellation of the petitioner's registration certificate dated 12.7.2011 is set aside with a direction to the respondent to issue a show cause notice to the petitioner and afford an opportunity to submit their objections and after affording an opportunity of personal hearing, the respondent is directed to pass a reasoned order on merits and in accordance with law. Till such exercise is completed, the assessment order dated 23.8.2017 for the year 2011-12 shall be kept in abeyance and shall abide by the order, which is to be passed by the Assessing Officer with regard to the registration certificate of the petitioner. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

RS

To

The State Tax Officer,
Sathyamangalam.

+1cc to Mr.Ravindran, Advocate, S.R.No.77471
+1cc to the Special Government Pleader, S.R.No. 77889

WP.Nos.26861 & 27259 of 2017 &
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MG(CO)
GN(20/11/2017)