IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2018

CORAM

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

WP.No.22890 of 2013

&

M.P.No.1 of 2013

Sri.Sundha Metals,
Rep. by its Proprietor,
No.13, New No.25, Post Office Street,
First Floor, Chennai 600 001 ... Petitioner

Vs

State of Tamil Nadu
Rep. by Assistant Commissioner (CT),
Harbour IV Circle,
N.S.C.Bose Road,
Chennai 600 001. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of certiorarified mandamus, to call for the proceedings of the respondent in id 111441817 dated 04.04.2013 and quash the same and direct the respondent to restore the sales tax registration under TNVAT Act as the cancellation of registration is against the orders of Supreme Court reported in 109 STC 439.

For Petitioner :: Mr.C.Baktha Sironmoni

For Respondent :: Ms.G.Dhanamadhri
Government Advocate

O R D E R

Heard Mr.C.Baktha Siromoni, learned counsel for the petitioner and Ms.G.Dhanamadhri, learned Government Advocate [Taxes] appearing on behalf of the respondent.

2.The petitioner has impugned a communication issued by the respondent dated 04.04.2013, cancelling the petitioner's sales tax registration under the provisions of the Tamil Nadu Value Added Tax Act, 2006 [in short "the TNVAT Act"] with retrospective effect. Firstly, such retrospective cancellation is held to be bad in law in the decision of the Hon'ble Supreme Court of India in State of Maharashtra Vs. Suresh Trading Company, reported in (1998) 109 STC 439.

3.Apart from that there is a statutory violation of Section 39(14) of the Act, which states that the authority granting the Certificate of Registration may, by order, for good and sufficient reasons cancel, modify or amend any certificate of registration granted by it. However, before exercising such power, the dealer concerned should be given an opportunity to be heard in terms of Section 39(15) of the TNVAT Act. This mandatory/statutory requirement has not been followed. These are sufficient to hold that the impugned order of cancelling the petitioner's registration with retrospective effect is illegal.

4.For the above reasons, the impugned order is set aside and the writ petition is allowed. Consequently, connected miscellaneous petition is closed. No costs. It is open to the respondent to issue show cause notice to the petitioner and proceed further in accordance with law.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

The Assistant Commissioner (CT),
Harbour IV Circle,
N.S.C.Bose Road, Chennai 600 001

+1cc to Special Government Pleader SR.No.1677

W.P.No.22890 of 2013

SDR 05.02.2018