IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 08.01.2018
CORAM
THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.No.34268 of 2013
&
M.P.Nos.1 & 2 of 2013

Amsler India,
No.9, Arcot Road,
Virugambakkam,
Chennai 600 092.
Represented by its Proprietor,
S.Pradeep Kumar,
Son of Bawarlal ... Petitioner

Vs

The Assistant Commissioner,
Commercial Taxes,
Saligramam Assessment Circle,
No.88, 8th Street,
Ashok Nagar,
Chennai 600 083. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records pertaining to the issue of the order dated 26.10.2013 in declaring that the registration of the Amsler India, No.9, Arcot Road, Virugambakkam, Chennai 600 092, the petitioner company vide TIN No.33781424059 is inactive as communicated in the website duly issued by the Assistant Commissioner, Commercial Taxes, Saligramam Assessment Circle, No.88, 8th Street, Ashok Nagar, Chennai 600 083, the respondent herein and quash the same.

For Petitioner :: Mr.D.Ashok Kumar

For Respondent :: Ms.G.Dhanamadhri
Government Advocate [Taxes]

O R D E R

Heard Mr.D.Ashok Kumar, learned counsel for the petitioner and Ms.G.Dhana Madhri, learned Government Advocate [Taxes] appearing on behalf of the respondent.

2.The petitioner has filed this writ petition to declare the order dated 26.10.2013 passed by the respondent holding that the petitioner's registration under the provisions of the Tamil Nadu Value Added Tax Act, 2006 [in short "the TNVAT Act"] has become inactive.

3.According to the petitioner, they have filed returns online upto the month of October 2013 and there is no way that registration can be termed as inactive. Further, it is submitted that before rendering the registration inactive, no opportunity was granted to the petitioner as mandated under Section 39(15) of the Act. That apart, it is submitted that there has been violation of Rule 19 of the TNVAT Rules, 2007 as the cancellation of registration has not been communicated to the petitioner.

4.In the absence of any proof to show that the petitioner was heard before cancellation was effected, it has to be held that the impugned cancellation is unsustainable. Therefore, the same has to be necessarily set aside.

4.Accordingly, the writ petition is allowed and it is declared that the cancellation of the petitioner's registration under the Act as inactive is held to be unsustainable and the petitioner is given liberty to file a representation before the respondent along with a copy of this order and seek for restoration of the registration. As and when such representation is filed, the respondent shall consider the same and pass appropriate orders to restore the petitioner's registration in accordance with law, after affording an opportunity of personal hearing. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

maya

To

The Assistant Commissioner,
Commercial Taxes,
Saligramam Assessment Circle,
No.88, 8th Street,
Ashok Nagar,
Chennai 600 083.

+1cc to Mr.D.Ashok Kumar, Advocate, S.R.No.1521

+1cc to the Government Pleader, S.R.No.1676

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NRK(CO)
RRK(07/02/2018)