

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 04.12.2018
CORAM
THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU
W.P.No.30386 of 2018
and
W.M.P.No.35461 of 2018

Sri Sai Agencies,
Represented by its Proprietor
G.Ganesh,
Dharmapillai Thottam,
Lakshmi Nagar, Nandivaram,
Guduvanchery.

... Petitioner

vs.

The Assistant Commissioner (CT),
Chingleput Assessment Circle,
Chingleput.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records on the files of the respondent herein in his TIN/CST 33351605443 dated 04.05.2017, quash the same.

For Petitioner : Mr.R.Kumar

For Respondent : Mrs.G.Dhana Madhri
Government Advocate (Tax)

O R D E R

The petitioner is aggrieved against the proceedings of the respondent dated 04.05.2017 in cancelling the registration of the petitioner under the Tamil Nadu Value Added Tax Act, 2006.

2. It is the case of the petitioner that originally he was running the business in the name of 'Parasakthi Oil Store' and that the petitioner made a request to the respondent to change the name of the company as 'Sri Sai Agencies'. Thus, it is specifically contended by the petitioner that he has not made any request for cancellation of registration as found in the impugned proceedings. Therefore, it is contended that the cancellation of registration without issuing notice to the petitioner is in violation of principles of natural justice and consequently, the same cannot be sustained.

3. The learned counsel appearing for the petitioner further pointed out that even according to the Cancellation Clarification Notice dated 12.06.2017 issued by the respondent, the petitioner was called upon to clarify within 15 days from

the date of receipt of the notice as to whether the business activity is still carried on. Therefore, he contended that the impugned cancellation made without even waiting for the petitioner to make such reply is again in violation of principles of natural justice.

4. On the other hand, the learned counsel for the respondent, based on the instruction, submitted that the petitioner has made a request for cancellation of registration by an application dated 04.05.2018 and therefore, the registration was cancelled. Thus, she submitted that the respondent cannot be found fault with in cancelling the registration, since such action is taken, based on the request of the petitioner alone. She produced a set of documents before this Court in connection with the cancellation of the registration of the petitioner.

5. There is no dispute to the fact that the impugned order of cancellation was made only on the reason that the petitioner sought for such cancellation through letter dated 04.05.2017. On the other hand, it is contended by the petitioner that what was sought for, is change of name of the Company and not for cancellation of the registration. Even otherwise, perusal of the cancellation clarification notice dated 12.06.2017 would clearly indicate that the petitioner was given 15 days time to make his reply with regard to the business activity being carried on in the premises. Therefore, it is evident that the time granted therein, expires only on 27.01.2017, however, an order of cancellation was issued on 23.06.2017, which means that the respondent has chosen to pass the order without even waiting for the petitioner to make his reply.

6. Therefore, for all these reasons, this Court finds that the impugned cancellation of registration was passed in violation of principles of natural justice. Moreover, as the impugned order itself refers that the same was passed based on the request made by the petitioner and as it is now stated before this Court that no such request was made by the petitioner, this Court is inclined to set aside the impugned cancellation order, however, by granting liberty to the respondent to initiate fresh proceedings, if any, so warranted in accordance with law. Accordingly, this Writ Petition is allowed and the impugned order is set aside. No costs. Consequently, connected M.P. is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

sni

To

The Assistant Commissioner (CT),
Chingleput Assessment Circle,
Chingleput.

+1cc to Mr.R.Kumar, Advocate, S.R.No.83075

+1cc to the Government Pleader, S.R.No.83684

W.P.No.30386 of 2018

SPD (CO)

rrs 21/12/2018



WEB COPY