IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.No.4095 of 2013
and M.P.No.1 of 2013

M/s.Tejaswini Engineering Pvt Ltd.,
Rep. by its Authorised Signatory
R.Srinivasan,
Door No.36, Nenmell Village,
Tirukalkundram Road,
Chengalpattu - 603 002. ...Petitioner

Vs

The Assistant Commissioner (CT)
Chengalpet Assessment Circle,
Chengalpet. ...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the impugned proceedings of the respondent in TIN: 33021603054/2012-13 dated 03.01.2013, quash the same as illegal, contrary to Section 39(15) of the TNVAT Act, 2006 being violative of the principles of natural justice.

For Petitioner : Mr.S.Rajasekar

For Respondent : Mrs.Mohamed Shaffiq
Special Government Pleader

ORDER

The order of cancellation of the petitioner's Registration Certificate is under challenge in the present writ petition.

2. The main ground raised by the petitioner herein is that when the authorities had chosen to cancel the Registration Certificate under Section 39 (14) of the Tamilnadu Value Added Tax Act, Section 39 (15) mandates the authority to give the dealer an opportunity of being heard.

3. A perusal of the impugned order shows that pursuant to the notice issued by the respondent, the petitioner had given their objections which has been set forth in the impugned order

of cancellation. The order, however discloses that the petitioner has been given an opportunity of personal hearing, while the proceedings for cancellation took place. As such, the procedure adopted by the respondent herein while canceling the Registration Certificate is violative of Section 39 (15) of Tamilnadu Value Added Tax Act and as such, the order itself has become illegal.

4. Nevertheless, since the respondent had taken a view that there had been a Certificate violation, which necessitates further action for cancellation of the Registration Certificate, it would be appropriate to provide an opportunity to the respondent herein to initiate fresh action in accordance with law by complying with the procedure contemplated under law.

5. In the light of the above observations, the order dated 03.01.2013 in TIN: 33021603054/2012-13 is set aside. The respondent is however at liberty to initiate fresh action for cancellation, if they choose to do so, in accordance with Section 39 of the Tamilnadu Value Added Tax Act, by giving due opportunity of personal hearing to the petitioner herein during the course of proceedings. During the course of such personal hearing, the petitioner is at liberty to file his objections, if any.

6. Accordingly, the writ petition stands allowed in the above terms. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vum

To

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

+1cc to M/s.R.Hemalatha, Advocate sr.50838

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nr 18/07/2019