BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **08.08.2019**
CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P.(MD)No.3907 of 2016
and
W.M.P.(MD)No.3492 of 2016

Tvl.S.M.Leathers,
Represented by its Proprietor,
S.Mohammed Ali, S/o.Sheik Dawood,
Old No.44, New No.21, First Floor,
Mohamadiyapuram, Begambur (Post),
Dindigul - 624 002. ... Petitioner

/Vs./

The Assistant Commissioner (CT)-III,
Commercial Tax Building,
Sub - Collector's Office Road,
Dindigul - 624 001. ... Respondent

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the respondent in cancellation ID : 376896624 dated 22.01.2016 and quash the same as illegal and consequently directing the respondent to restore petitioner concern's VAT Registration in TIN No.33285241963.

For Petitioner : Mr.S.A.Ajmakhan
For Respondent : Mrs.J.Padmavathy Devi
Special Government Pleader

ORDER

The short ground on which I am inclined to set aside the impugned order arises from reading of the counter filed by the respondent.

2. The petitioner assails an order cancelling its registration under the provisions of the Tamil Nadu Value Added Tax Act, 2006 [in short 'Act'] dated 22.01.2016 with retrospective effect ie., from 14.12.2012. Though the order is challenged on various grounds, the only ground canvassed is that no effective opportunity has been extended to the petitioner prior to passing of the impugned order.

3. The counter filed by the respondent, at Paragraph 13, states as follows:

> *'13. It is submitted that, prior notice was served specifically informing that his registration was to be deactivated and if wanted reactivation, 50% of the falsely claimed ITC should be remitted. He personally appeared and filed his objection with Xerox copies of the Form-I return of his sellers. On 28-09-2015, and again on 27-11-2015, intimation was sent through email to produce accounts on 08-01-2016. The petitioner appeared personally on 28-01-2016 and presented his accounts but failed to produce records of sale Invoices, transportation documents and payment of freight stock book within 15 days.'*

4. Though the respondent has offered a personal hearing on 28.01.2016 when the petitioner is stated to have presented his accounts, the impugned order has been passed on 22.01.2016, even prior to the conduct of personal hearing. Thus, the impugned order is liable to be set aside on the ground that it violates principles of natural justice. This Writ Petition is thus allowed and the impugned order is set aside.

5. The matter is remitted to the file of the assessing officer to be redone in accordance with law after issuance of the notice to the petitioner for personal hearing, within a period of six weeks from today. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

/TRUE COPY/

Sub Assistant Registrar

To
The Assistant Commissioner (CT)-III,
Commercial Tax Building,
Sub - Collector's Office Road, Dindigul - 624 001.

+1 CC to M/s.S.A.AJMAL KHAN, Advocate (SR-80856[F] dated 09/08/2019)
+1 CC to M/s.SPL GP (SR-81497[F] dated 13/08/2019)

Order made in
W.P.(MD)No.3907 of 2016
Dated:
08.08.2019

sm
JM/27.08.2019/2P/4C