BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 20.07.2020
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.12582 of 2017
and
W.M.P.(MD)Nos.9690, 9691 and 9692 of 2017

Tvl.Sri Krishnan Oil Mill,
Represented by Proprietor,
P.Krishnamoorthy,
No.134/1385, West Bouleward Road,
Trichy - 620 008. ...Petitioner

Vs.

1.The Assistant Commissioner (CT),
Mailam Chandai - 1 Assessment Circle,
Trichy.
2.The Commissioner,
Trichy City Corporation,
Tiruchirapalli. ...Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of certiorarified Mandamus, to call for the records of first respondent dated 08.05.2017 in cancellation ID.10103130317460 and quash the same and consequently direct the first respondent to restore the petitioner TIN:33106471928.

For Petitioner : Mr.T.Sivakumar
For R1 : Mrs.J.Padmavathy Devi
Special Government Pleader.
For R2 : Mr.N.S.Karthikeyan,
Standing Counsel.

O R D E R

Heard the learned counsel for the petitioner, learned Special Government Pleader for the first respondent and the learned Standing Counsel for the second respondent.

2.The writ petitioner has been duly registered as an assessee under Tamil Nadu Value Added Tax Act. He came under the purview of the first respondent. The first respondent by the impugned order has cancelled TIN:33106471928, and the registration certificate of the writ petitioner. Challenging the same, this Writ Petition has been filed.

3.The learned Special Government Pleader appearing for the first respondent contended that the first respondent has passed a detailed order and that the same does not warrant any interference.

4. I after hearing the learned counsel for the writ petitioner as well as the learned Standing counsel appearing for the second respondent and after going through the materials on record, I am able to note that the writ petitioner is carrying on his business in the land, which belongs to the second respondent/corporation. It appears that like the petitioner, there are a number of other persons, who are also carrying business on the land belonging to the

corporation. The land appears to have been leased out by the corporation some several years ago in favour of the petitioner's father. But in the land in question, a superstructure has also been put up. According to the petitioner, the superstructure belongs to his father. After the demise of the petitioner's father, the property appears to have devolved on the other family members.

5.The petitioner's case is that his mother Tmt.P.Suresh kumari has executed a rental agreement in his favour and it is this rental agreement that was produced by the petitioner before the first respondent/tax authority.

6.The first respondent now states that they approached the second respondent under RTI Act, and after coming to know that the second respondent has not executed any rental agreement in favour of the petitioner, the first respondent felt that the registration itself is liable to be cancelled.

7.The petitioner's counsel rightly pointed out that there can always be dichotomy in the matter of ownership. Land may belong to one while the building may belong to another. In this case, the superstructure was put up by the petitioner's father. Following his demises, the petitioner's mother executed the rental agreement in his favour. He also pointed out that the earlier show cause notice issued to him, called upon the petitioner to produce documents to show that the assessment in respect of the premises has been transferred to Tmt.Suresh Kumari from Thiru.A.Prakasam.

8.But then, the impugned order rests on some other reasons. The reason on which the impugned order is based differs from the reason that is set out in the earlier show cause notice. I therefore, find considerable force in the petitioner's contention that the stand taken in the show cause notice cannot be different from the one taken in the impugned order. Therefore, on this ground also the impugned order is liable to be quashed.

9. The writ petition is allowed. No cots. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

das

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1.The Assistant Commissioner (CT),
Mailam Chandai - 1 Assessment Circle,
Trichy.

2.The Commissioner,
Trichy City Corporation,
Tiruchirapalli.

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