BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.03.2021
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.17404 of 2013 and
M.P.(MD)No.1 of 2013

S.C.Thangam ... Petitioner

Vs.

1. The Deputy Commissioner,
Commercial Tax Office, Nagercoil.

2. The Commercial Tax Officer,
Commercial Tax Department,
Nagercoil. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to assess the petitioner's returns by revalidating the petitioner's TIN No.33346120847 account and grant such other further reliefs as this Court may deem fit and proper in the nature and circumstances of the case.

For Petitioner : Mr.B.Rajesh
For Respondents : Mr.G.Arjunan,
Government Advocate.

O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned Government Advocate appearing for the respondents.

2. The assessing officer Thiru.Rajasekaran is also present before this Court through video conferencing.

3. The petitioner's counsel states that she is a woman entrepreneur who was engaged in Fancy Store business in Kanyakumari from 1991. She had registered herself as a dealer and her TNGST Registration Certificate number is R.C.No.884295. Her Central Sales Tax number is 459283. She states that she was filing her returns without any default. After coming into force of the Tamil Nadu Value Added Tax Act, 2006, she registered herself with the respondents and her TIN number was 33346120847. She states that while so, she was informed orally by the first respondent that her TIN number was cancelled. The case of the petitioner is that she did not receive any show cause notice and she was not served with any order whereby her TIN number was cancelled.

4. Therefore, the petitioner has filed the present writ petition for reoperating her TIN number and assessing her returns.

5. Though the writ petition was filed way back in the year 2013, the writ petition itself is being taken up for final disposal after a gap of almost 8 years. Till date no counter affidavit has been filed. The assessing officer asserted before this Court that only after issuance of notice, the petitioner's TIN number was cancelled. When I queried for further details, it appears that he was only making an assertion with the hope that the procedure would have been followed. When the petitioner has made a specific allegation that the principles of natural justice as well as the procedure laid down in the Act were not followed, the same cannot be met by a counter assertion. The respondent must furnish relevant materials to show that due process was followed. Till date the respondents have not filed counter affidavit. They have not produced the copies of the show cause notice as well as the cancellation order and its service on the petitioner herein. Therefore, I have to necessarily proceed on the premise that the assertions made by the petitioner remain uncontroverted.

6. The learned Government Advocate prayed for time. I was not inclined to grant any further adjournment. This writ petition is pending for almost eight years. That apart, the writ petition came up for disposal on several occasions. On each of the occasions, the learned Special Government Pleader had sought time and assured that she would get instructions by the next hearing date. I could see that the case was listed for hearing on 25.10.2017, 20.11.2018, 02.01.2019, 06.10.2020, 03.11.2020 and 26.11.2020. This case has thus been listed on several occasions and on every occasion, the learned Special Government Pleader only sought further time. This writ petition has been filed in the nature of writ of mandamus. I am satisfied with the averments set out in the affidavit filed in support of this writ petition.

7. Therefore, I direct the respondents to restore the petitioner's petition mentioned registration. Whatever remedies that may flow as a consequence will be available to the writ petitioner. The respondents are directed to issue formal proceedings restoring the petitioner's registration within a period of four weeks from the date of receipt of a copy of this order.

8. This writ petition stands allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PMU

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 Deputy Commissioner,
   Commercial Tax Office,
   Nagercoil.

2. The Commercial Tax Officer,
   Commercial Tax Department,
   Nagercoil.

+1 CC to M/s.B.RAJESH, Advocate (SR-11801[F] dated 17/03/2021)

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16.03.2021

mj(CO)
TR(09.04.2021) 3P 4C