IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE G. ARUL MURUGAN

W.A.Nos. 496 & 497 of 2011
and
M.P.Nos. 1 & 2 of 2011

W.A.No.496 of 2011

The Deputy Commercial Tax Officer
(Registration Cell),
Commercial Taxes Department,
Office of the Commissioner (CT),
Puducherry. .. Appellant

vs

Maruti Agencies,
Rep. by its Proprietrix Mr.R.Thirumalai,
Plot No.3, VIP Nagar,
Arumparthapuram,
Puducherry. .. Respondent

W.A.No.497 of 2011

The Deputy Commercial Tax Officer
(Registration Cell),
Commercial Taxes Department,
Office of the Commissioner (CT),
Puducherry. . Appellant

vs

Bhavani Agencies,
Rep. by its Proprietrix Tmt.N.Shanthi,
No.2, Pondy Villupuram Main Road,
Puducherry. .. Respondent

Prayer in W.A.No. 496 of 2011 : Appeal filed under Clause 15 of Letters Patent against order dated 30.04.2010 made in W.P.No.626 of 2010.

Prayer in W.A.No.497 of 2011 : Appeal filed under Clause 15 of Letters Patent against order dated 30.04.2010 made in W.P.No.625 of 2010.

For Appellant	:	Mr. R.Sreedhar Additional Government Pleader (Puducherry) (in both writ appeals)
For Respondent	:	No appearance (in W.A.No.496/2011) Ms.Radhika Chandrasekar (in W.A.No.497/2011)

COMMON JUDGMENT
(Delivered by Dr. ANITA SUMANTH.,J)

The Union Territory of Puducherry challenges order passed on 30.04.2010 allowing the writ petitions filed by two assessees under the provisions of the Puducherry Value Added Tax Act, 2007 (Act / PVAT Act).

2. In those writ petitions, the writ petitioners / respondents in these appeals had challenged orders of cancellation of the registration under the PVAT Act. The orders of cancellation had been challenged on various grounds but what had appealed to the learned Judges was that there had been gross violation of the principles of natural justice.

3. The learned Judge has noted that, in W.P.No.23940 of 2009, involving an identical set of facts and similar challenge, the writ court

had stated as follows:-

> *"3.A perusal of the order passed further shows that quite apart from reasons given as a basis for issuance of a show cause notice, the order further refers to yet another reason that the petitioner had failed to file extract as regards the Declaration Form-C as prescribed under sub rule (10) of rule 14. A reading of the order thus reveals that more than one reason had resulted in persuading the officer to pass order of cancellation. Considering the fact that the status as a registered dealer confer certain rights and privilege on the dealer under the Act, in fairness to the rights of the petitioner, the respondent should have intimated about not only the rejection of the request seeking time but also the grounds on which the proposal is made, so that the petitioner has the opportunity to rebut the same.*
>
> *4.As rightly contended by the learned counsel for the petitioner, if the order proceeds on the reasons other than those stated in the notice, in fairness to the claim of the petitioner, the respondent should have indicated the same too in the notice. In the circumstances, I have no hesitation in accepting the plea of the petitioner that the order is passed without observing the principles of natural justice and the same has to be set aside.*
>
> *5.Learned Special Government Pleader appearing for the respondent pointed out that the petitioner is in arrears as stated in the notice. Per contra, the learned counsel for the petitioner however pointed out that as per audit statement, the petitioner had paid more than what had been demanded. It is not necessary for this Court to go into this disputed facts as to the amount remitted by the petitioner. However, since the petitioner's case is that he had paid more than the amount demanded and the respondent insist that the petitioner is in arrears of tax, it is necessary that the petitioner and the respondent settle the dispute as to the arrears and verify whether the petitioner had paid in excess. As already pointed out, this is a matter which the authorities and the*

assessee has to be settled. As regards the order now impugned, I have no hesitation in setting aside the same, but this does not mean that the hands of the respondent are tied. It is open to them to proceed in accordance with law."

4. Noticing the above identity of facts in the two cases, barring the fact that the present writ petitioners had filed revision petitions before the revisional authorities, the learned Judge has applied the ratio of the aforesaid order holding that the orders of cancellation of registration were in violation of the principles of natural justice. The impugned orders had been set aside and the writ petitions allowed granting liberty to the respondent to proceed in a manner known to law. Hence it was always open to the Puducherry Commercial Taxes Department to have issued notice afresh and proceeded in the matter. However, they have taken no action thus far.

5. More importantly, there is absolutely no infirmity pointed out in the order of the writ court dated 30.04.2010 and the facts on the basis of which the learned Judge has held that there was violation of the principles of natural justice, are also admitted. In such circumstances, we find no justification or cause to intervene and confirm order dated 30.04.2010 dismissing these writ appeals. No costs. Connected miscellaneous petitions are closed.

[A.S.M., J] [G.A.M., J]
04.10.2024

Index:Yes/No
Neutral Citation:Yes
ssm

DR. ANITA SUMANTH.,J.
and
G. ARUL MURUGAN.,J.

ssm

W.A.Nos. 496 & 497 of 2011

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