(2013) 07 MAD CK 0260

In the Madras High Court

Case No : Writ Petition No. 7594 of 2013

Jana Steels APPELLANT

Vs

The Assistant Commissioner (CT) RESPONDENT

Date of Decision : 17-07-2013

Acts Referred:

Tamil Nadu Value Added Tax Act, 2006 — Section 39, 39(14)

Citation : (2013) 07 MAD CK 0260

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : R. Kumar, for the Appellant; S. Kanmani Annamalai Government Advocate (T) for R1, for the Respondent

Judgement

M. Jaichandren, J.—Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Taxes) appearing on behalf of the respondent. The petitioner had applied for registration before the respondent, under the Tamil Nadu Value Added Tax Act, 2006. Accordingly, the respondent had issued the certificate of registration, in favour of the petitioner, with effect from 11.7.2012, by allotting TIN No. 33051705421, under the Tamil Nadu Value Added Tax Act, 2006. However, by the impugned proceedings, dated 11.2.2013, the registration of the petitioner had been cancelled, as per Section 39(14) of the Tamil Nadu Value Added Tax Act, 2006, without giving an opportunity of personal hearing to the petitioner, as contemplated under Clauses 14 and 15 of Section 39 of the Tamil Nadu Value Added Tax Act, 2006. It had also been stated that the cancellation of the registration had been done, arbitrarily and illegally, with retrospective effect, from 11.7.2012.

2. The learned counsel appearing on behalf of the petitioner had submitted that no opportunity of personal hearing had been given to the petitioner before the registration had been cancelled by the respondent. It had also been stated that the impugned order of the respondent is liable to be set aside for the reason that the said order had been passed, cancelling the registration of the petitioner, with

retrospective effect.

3. The learned Government Advocate appearing on behalf of the respondent had not refuted the claim of the petitioner that the impugned order had been passed by the respondent, without affording an opportunity of personal hearing to the petitioner. Further, it is seen, from the available records, that no reasons have been stated, in the impugned order of the respondent, for cancelling the registration of the petitioner. Further, the impugned order had been passed by the respondent, cancelling the registration of the petitioner, with retrospective effect, without having the power or the authority to do so.

4. Clause 14 of Section 39 of the Tamil Nadu Value Added Tax Act, 2006, makes it clear that the registration of a dealer can be cancelled only on the basis of sufficient reasons. However, the impugned order passed by the respondent does not contain such reasons, as contemplated under the said provision. Further, Clause 15 of Section 39 of the said Act, makes it clear that such cancellation can be made only after affording an opportunity of personal hearing to the dealer. It is also noted that the impugned order is contrary to the principle laid down by this Court, reported in Indo Germa Products Limited Vs. Assistant Commissioner (CT), . As such, the impugned order of the respondent is liable to be set aside. Hence, it is set aside. Accordingly, the writ petition stands allowed. However, it goes without saying that it would be open to the respondent to cancel the registration of the petitioner, as per law, after issuing an appropriate notice and by affording an opportunity of personal hearing to the petitioner. No costs.