
(2017) 06 MAD CK 0004

In the Madras High Court

Case No : 15356 of 2017 and WMP Nos 16650 & 16651 of 2017

M/s.Sam Exports Represented by A.Shrinivasan

APPELLANT

Vs

The Assistant Commissioner (CT)

RESPONDENT

Date of Decision : 19-06-2017

Acts Referred:

Citation : (2017) 06 MAD CK 0004

Hon'ble Judges : K.Ravichandrabaabu

Bench : SINGLE BENCH

Advocate : K.Ravichandrabaabu

Final Decision : Allowed

Judgement

1. Mr.K.Venkatesh, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main writ petition

itself is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved by the order dated 23.01.2017 and 13.04.2017 through which the petitioner's registration was cancelled twice by

the respondent, one on the reason that the petitioner did not file monthly returns consecutively for three months and another on the reason that the

petitioner is not doing their business at the place to which the registration certificate was given.

3. The learned counsel appearing for the petitioner submitted that there was only one show cause notice dated 07.01.2017 issued on the

petitioner, which only indicates the reason for proposed cancellation as non-filing of the monthly returns for three consecutive months. It is their

further contention that no other reason is stated in the said show cause notice and no other notice was also issued by the respondent indicating the

allegation as though the petitioner is not doing their business at the place of business. It is his submission that both the reasons stated in the impugned orders are wrong, since the petitioner is regularly filing the monthly returns through e-filing and therefore, there is no default. Likewise, it is his further submission that the petitioner is regularly doing his business at 19, Kumili, Mettupalayam, Kannivakkam, Chengalpet, the place to which the certificate of registration was issued. Therefore, he submitted that a confusion in the mind of the respondent has resulted in passing the erroneous impugned orders.

4. The learned Government Advocate fairly submitted that so far as the second order dated 13.04.2017 is concerned, it was not preceded with any show cause notice indicating the reason set out in the order. Insofar as the contention of the petitioner that they are filing monthly returns consecutively, the learned Government Advocate submitted that the issue will be re-considered by the respondent on perusal of the records.

5. Heard both sides.

6. It is seen that before passing the impugned order dated 23.01.2017, the petitioner was served with a notice on 07.01.2017. No doubt that against the reason set out in the said notice, the petitioner has not replied. But perusal of the impugned order dated 23.01.2017 would show that the respondent has not given any finding on the reason set out in the impugned notice as to what are the three consecutive months in which the petitioner did not file their monthly returns. Needless to say that such allegation is vague to which the petitioner can hardly be expected to file any effective reply. Likewise, the other order dated 13.04.2017 indicated some other reason viz., that the petitioner is not doing the business at the place of business. Admittedly, that was not the reason set out in the original notice dated 17.01.2017 and therefore, the respondent is not justified in passing the second order setting out some other reason for cancellation. Therefore, I am of the view that both the orders cannot be sustained and the respondent has to proceed against the petitioner afresh, if there are reasons to do so. Accordingly, the writ petition is allowed and the impugned orders are set aside. It is open to the respondent to proceed against the petitioner for cancellation of the registration by following due process of law, if any justifiable reason is available for the respondent to do so.

Since, this Court has set aside the impugned orders, the respondent shall restore the registration forthwith. No costs. Consequently, connected miscellaneous petitions are closed.