**(2016) 01 MAD CK 0167**

**In the Madras High Court**

**Case No :** W.P. No. 109 of 2016

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| Ranka Agency | APPELLANT |
| Vs | |
| The Joint Commissioner (CT), Chennai (North) Division and Others | RESPONDENT |

**Date of Decision :** 12-01-2016

**Acts Referred:**
Tamil Nadu Value Added Tax Act, 2006 — Section 39(14), Section 39(15)

**Citation :** (2016) 01 MAD CK 0167

**Hon'ble Judges :** R. Mahadevan, J.

**Bench :** Single Bench

**Advocate :** C. Rekha Kumari, for the Appellant; V. Hari Babu, Additional Govt. Pleader, for the Respondent

**Final Decision :** Disposed Off

## Judgement

R. Mahadevan, J.—1. Petitioner has filed this writ petition challenging the impugned proceedings of the 2nd respondent dated 2.11.2015 and consequential proceedings of the 1st respondent in R.P. No.9 of 2015 dated 20.11.2015.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

3. The petitioner herein who is engaged in the business of trading activities in milk powder and Ghee is a registered dealer on the files of the 2nd respondent. The petitioner had filed monthly returns through e-filing and submitted the copy of the monthly returns up to 20.1.2015 and the same was acknowledged by the 2nd respondent. While so, the petitioner was issued with an order dated 2.1.2015 passed by the 2nd respondent stating that the registration is ordered to be cancelled with effect from 1.4.2014.

4. It is the case of the petitioner that until 20.1.2015, the petitioner was not informed by any notice or about the proposal of the Department to cancel the registration of the petitioner. Further in the order dated 2.1.2015, the provisions

 

under section 39(15) was not complied and without providing an opportunity of personal hearing before cancelling the registration with retrospective effect, the impugned order cancelling registration came to be passed. Aggrieved against the order passed by the 2nd respondent, the petitioner filed a revision petition before the 1st respondent on 6.3.2015 and the said revision was dismissed on the ground that the petitioner was not in possession of any documentary evidence in support of his claim. Against which, the present Writ Petition has been filed.

5. Learned counsel for the petitioner submitted that the 2nd respondent, without even issuing any notice or providing any opportunity of personal hearing as per Section 39(15) of the Tamilnadu Value Added Tax Act, 2006, cancelled the registration certificate with retrospective effect. She further submitted that the impugned order dated 1.2.2015 passed by the 2nd respondent does not disclose any reason for cancellation of registration with retrospective effect and hence the same is not sustainable in the eye of law.

6. The learned Additional Government Pleader, on the other hand, supported the orders under challenge.

7. Without invoking the provisions under Section 39(14) as well as 39(15) of the Tamilnadu Value Added Tax Act, 2006, in one line order, the Registration certificate of the petitioner got cancelled by the 2nd respondent. The 1st respondent being the revisional authority also failed to look into the provision of the act and dismissed the revision. This Court in a number of cases, directed the departmental authorities to follow the principles of natural justice as well as the provisions of the Act with regard to the cancellation of registration of dealers but even then, such type of orders are being passed. Since there is blatant violation of the provisions of the act, other aspects of the issue herein need not be gone into.

8. For the reasons stated above, the impugned orders are set aside and the matters are remanded back to the 2nd respondent for passing appropriate orders, after affording due opportunity to the petitioner. It is made very clear that before effecting any cancellation, the 2nd respondent is strictly directed to follow the provisions under sections 39(14) and 39(15) of Tamilnadu Value Added Tax Act, 2006 after affording due opportunity to the petitioner.

9. In view of the above, the 2nd respondent is directed to restore the registration certificate or registration number of the petitioner forthwith, so as to enable the petitioner to have their on line operations.

10. The Writ Petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.