THE HON'BLE SRI JUSTICE R.SUBHASH REDDY
and
THE HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.5481 of 2013

ORDER ***(per RSR,J):***

This Writ Petition is filed questioning the orders dated 19.12.2008 passed by the Entertainment Tax Officer, Lad Bazar Circle, Hyderabad, whereby in exercise of power under Section 9A(2) of the Andhra Pradesh Entertainment Tax Act, 1939 (for short 'the Act') read with Rule 31(2) of the Rules made thereunder, the Entertainment Tax Officer directed the petitioner to pay an amount of Rs.1,58,350/- towards the differential entertainment tax and tax due.

The petitioner is an exhibitor of motion pictures. It is filing weekly returns in Form VI of the Act from 01.09.2007 and paying the Entertainment Tax @ 15% for the High Budget Telugu feature films and 7% for the Low Budget Telugu feature films, as against 20% and 15% respectively. On the ground that the petitioner, without filing the copy of the affidavit of the Producer of the feature film and Certificate issued by the A.P State Film Development Corporation, paid tax at exempted rates, the impugned orders are passed demanding Rs.1,58,350/-.

It is the case of the petitioner that there is no tax slab @ 25% in any case and such figure is arrived at without considering the case in proper perspective.

As evident from the counter-affidavit filed by respondent No.3, it is clear that though the petitioner paid the tax at exempted rates, he has not filed the copies of the affidavit of the Producer of the feature film and the certificate issued by the Andhra Pradesh State Film Development Corporation.

The petitioner has placed on record a copy of the common order
dated 09.08.2011 passed by this Court in W.P.Nos.7431 and 7492 of 2011, wherein in identical circumstances, this Court has remitted the matter for fresh consideration by the authority concerned.

Though it is admitted that a typographical error crept in the orders of assessment in recording the rate of tax @ 25% for the dubbed films, nothing is averred in the counter affidavit with regard to the same. Further, the petitioner is claiming exempted rate, but he has not filed copy of the affidavit of the Producer of the feature film and Certificate issued by the A.P State Film Development Corporation.

In that view of the matter, we deem it appropriate that it is a fit case to set aside the impugned orders and the same are accordingly set aside. The petitioner is directed to place the material in support of his case for exemption of tax before the respondent authority within a period of four weeks from today. Thereafter, it is open to the respondents to pass fresh orders assessing the tax payable by the petitioner.

The Writ Appeal is accordingly allowed. There shall be no order as to costs.

Consequently, pending miscellaneous applications, if any, shall also stand dismissed.

R.SUBHASH REDDY, J

Date: 27.02.2015

Dr.B.SIVA SANKARA RAO, J

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(Order of the Bench delivered by the Hon'ble Sri Justice R. Subash Reddy)

Date: 27.02.2015

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