HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.235 of 2015

ORDER : (Per Justice R. Subhash Reddy)

In this writ petition, the petitioner has questioned the tax payment notice dated 16.12.2014, issued by the 2nd respondent-Commercial Tax Officer, Narayanguda Circle, Hyderabad, which is consequent to the assessment order passed by the 3rd respondent-Deputy Commercial Tax Officer-I, Nampally Circle, Hyderabad, in Form VAT 305, dated 31.07.2014, vide TIN No.28740175772.

2. The 3rd respondent-assessing authority has passed assessment order against the petitioner-Corporation on 31.07.2014, in AAO No.3998, determining the tax payable by the petitioner at Rs.38,12,013/- for the tax period from April 2009 to January 2014, in exercise of powers under Rule 25(5) of the Rules framed under the A.P.Value Added Tax Act, 2005. Consequent to same, the 2nd respondent has issued tax payment notice, dated 16.12.2014, to the petitioner, demanding for payment of tax as determined in the assessment order, dated 31.07.2014. The said notice is under challenge mainly on the ground that even without serving the copy of assessment order dated 31.07.2014, the demand notice is issued, which is illegal and arbitrary.

3. In the counter affidavit filed by the 3rd respondent, while denying the various allegations made by the petitioner, it is stated that the assessment order, dated 31.07.2014 was passed based on the available records, as the petitioner did not respond to the show cause notice sent by registered post on 19.06.2014. It is also stated that the assessment order dated 31.07.2014, was also sent to the petitioner by registered post on 25.09.2014, but the same was also returned unserved. It is further stated that the entire record was sent to the 2nd respondent on 04.12.2014 and that the record reveal that the petitioner has received orders from the 2nd respondent.

4. In this case, it is to be noticed that the order dated 31.07.2014, sent by the assessing authority was returned unserved even according to the averments in the counter affidavit. Although it is stated that the record reveal that the petitioner has received orders from the 2nd respondent, no proof is filed for service of such order.

5. When the matter was listed on last occasion, it was adjourned to enable the learned Government Pleader for Commercial Taxes to obtain certified copy of the order dated 31.07.2014 passed by the 3rd respondent, so as to serve it on the petitioner. A copy of such order is served on the petitioner today. As much as the copy of the order dated 31.07.2014 is served on the counsel for petitioner today, we deem it appropriate to dispose of the writ petition by recording a finding that the

assessment order is deemed to have been served on the petitioner today and it is open for the petitioner to avail the remedies available under law against such order, by computing the period of limitation from today.

6. Subject to the above observations, the writ petition is disposed of. No costs. Pending miscellaneous applications, if any, shall stand closed.

R. SUBHASH REDDY, J

DR. B. SIVA SANKARA RAO, J

27th April 2015
ajr