

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.11502 of 2015

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking following relief:

“to issue Writ of Mandamus declaring the demand notice in Cr.No.937/P&Ex/14/B3, dated 04-12-2014, of the Deputy Commissioner, Prohibition and Excise, Khammam, as illegal, arbitrary and contrary to law and set aside the same and grant all consequential reliefs.”

Heard Sri T. Amarnath Goud, learned counsel for the petitioner and learned Government Pleader for Prohibition and Excise for respondents.

Earlier petitioner herein filed W.P.No.9018 of 2007 assailing the order passed by the Deputy Commissioner of Prohibition and Excise vide R.C.No.456/2001/DCW/C1, dated 14-03-2007. This Court by way of an order, dated

19-09-2014 allowed the said writ petition setting aside the order impugned in the said writ petition and directed the Deputy Commissioner to pass appropriate orders after giving opportunity of being heard to the petitioner.

Now, the Deputy Commissioner of Prohibition and Excise, Khammam – 3rd respondent herein issued impugned demand notice asking the petitioner to pay a sum of Rs.78,98,956/- towards differential of rental for the years 1989-90 to 2000-01 i.e., till January, 2001.

Calling in question the validity and legal sustainability of the said Demand Notice issued by the 3rd respondent herein the present writ petition has been filed.

The principal contention advanced in the present writ petition is that the Deputy Commissioner of Prohibition and Excise, Khammam – 3rd respondent herein issued impugned Demand Notice without hearing the petitioner in violation of principles of natural justice and in contravention of the orders passed by this Court in W.P.No.9018 of 2007.

On oral instructions received from the 3rd respondent it is submitted by the learned Government Pleader for Prohibition and Excise that the petitioner herein was not given any opportunity of hearing before issuing the impugned Demand Notice.

In the circumstances, without going into the merits and demerits of the issues in the present writ petition, this Court deems it appropriate to remand the matter to the 3rd respondent herein for fresh consideration.

For the aforesaid reasons, this writ petition is allowed and the impugned Demand Notice issued by the Deputy Commissioner of Prohibition and Excise, Khammam – 3rd respondent herein vide Cr.No.937/P&Ex/14/B3, dated 04-12-2014 is hereby set aside and the matter is remanded to the 3rd respondent herein for fresh consideration, in accordance with law, after giving opportunity of being heard to the petitioner herein, as expeditiously as possible, preferably within a period of three (3) months. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.V. SESA SAI, J

April 22, 2015

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