IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
W.P. No. 19814 of 2015

Between:

M/s.Shyam Ferrous Limited .. Petitioner

And

The State of Andhra Pradesh
and another .. Respondents

Date of Judgment Pronounced: 03.08.2015

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE G. CHANDRAIAH
&
HON'BLE SRI JUSTICE CHALLA KODANDA RAM

1. Whether Reporters of Local newspapers may be allowed to see the judgments? Yes/No

2. Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No

3. Whether Their Ladyship/Lordship wish to see the fair copy of the judgment? Yes/No

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O R D E R:- (per Hon'ble Sri Justice Challa Kodanda Ram)

The assessment order dated 31.03.2015 passed by the

2nd respondent-Commercial Tax Officer levying tax for the assessment year 2011-2012 is challenged in this writ petition.

The learned counsel for the petitioner has contended that no show cause notice was served on the petitioner before the assessment order was passed, thereby the impugned order is in violation of not only the principles of natural justice but also the procedure prescribed under the Central Sales Tax Act, 1956 (for brevity "the Act") and the Rules made thereunder, as such, the same is liable to be set aside.

Heard the learned counsel for both the parties and perused the material on record.

When the matter came up for hearing on 20.07.2015, the learned Government for Commercial Tax (Andhra Pradesh) took notice on behalf of the respondents and sought time to verify the record with regard to the factum of dispatch of show cause notice. Today, when the matter is taken up, the learned Government Pleader submits that the office record indicates that the notice was sent on 27.03.2015, however the acknowledgement due confirming the receipt of the notice by the dealer has not yet been received.

A perusal of the assessment order reveals that show cause notice dated 17.03.2015 was issued through registered post on 27.03.2015. Even assuming for argument's sake that the contention of the petitioner is to be rejected on the ground that the assessee refused to receive show cause notice dated 17.03.2015, but the observation made in the order that the notice was dispatched on 27.03.2015 creates suspicion about receipt of the notice by the assessee on or before 31.03.2015 inasmuch as 28.03.2015 being festival of Sriramanavami and 20.03.2015 being Sunday, both the days happened to be public holidays. Therefore, it cannot be presumed or inferred that the petitioner received the notice before the assessment order came to be passed. Further, it is specifically asserted by the petitioner that even as on today, the show-cause notice has not been received by them. We are not inclined to express any opinion about the contention of the petitioner that the impugned order is back-dated as no "web unique number" is given to the assessment order. On facts of the present case on record, we are satisfied that the order was passed without affording the petitioner any opportunity to put forward their case. In that view of the matter, the assessment order dated 31.03.2015 is liable to be set aside.

On the above analysis, the impugned assessment order dated 31.03.2015 is set aside leaving it open to the respondents-authorities to take appropriate action in accordance with law. The petitioner is at liberty to raise all objections before the authorities concerned both on facts and law.

Accordingly, the writ petition is disposed of. No order as to costs.

As a sequel to the disposal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

G. CHANDRAIAH, J

03.08.2015

CHALLA KODANDA RAM,J

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