IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

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W.P. No.32925 of 2015

Between:

M/s.Sri Comfort Air Products & Services … Petitioner

And

The Commercial Tax Officer and others. .… Respondents

JUDGMENT PRONOUNCED ON 07.10.2015

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

And

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? :

2. Whether the copies of judgment may be
marked to Law Reporters/Journals. :

3. Whether their Ladyship/Lordship wish to
see the fair copy of the Judgment? :

THE HONOURABLE SRI JUSTICE G.CHANDRAIAH

AND

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

W.P. No.32925 of 2015

ORDER: (Per the Hon'ble Sri CKR, J)

Heard the learned counsel for the petitioner and the learned Government Pleader.

Assessment order dated 24.09.2015 is challenged before this Court on the ground that the assessment order is made without taking into consideration the scope of the show cause notice and the same travels beyond the scope of the show cause notice. Further, it is also submitted that in spite of specific request for personal hearing, the same has not been granted and wrong assessment was made by the Assessing Officer and fastened huge liability on the petitioner.

The learned counsel for the petitioner relies on the judgments of this Court reported in the case of ***S.LALAIAH & CO. v. THE DEPUTY COMMISSIONER (CT), SAROORNAGAR DIVISION, NAMPALLY, HYDERABAD AND ANOTHER*** and ***MARZ FURNITURES & DECORS (P) LIMITED, HYDERABAD v. COMMERCIAL TAX OFFICER (AUDIT), ABIDS DIVISION, HYDERABAD & ANOTHER.***

We have perused the assessment order, which reveals that there are various aspects, which do not form part of the notice, have been considered, particularly, in relation to input tax credit, which would affect the assessment to a great extent. According to the petitioner,
the tax liability would not be significant and in that view of the matter filing of the appeal is well-nigh impossible for the petitioner as there is requirement to comply with the pre deposit at the rate of 12½ per cent.

In view of the judgments referred to supra wherein this Court has held that violation of principles of natural justice would vitiate the assessment order and therefore, the order of assessment is set aside, giving liberty to the Assessing Officer to make fresh assessment as deemed fit, after taking into consideration of the material that is placed before him and further objections that may be filed by the petitioner.
It is needless to mention that the Assessing Officer has to provide adequate opportunity to the petitioner to avoid complications of this nature and also to comply with the principles of natural justice.

Accordingly, this writ petition is disposed of.

As a sequel, miscellaneous petitions, if any, stands closed. There shall be no order as to costs.

JUSTICE G.CHANDRAIAH

JUSTICE CHALLA KODANDA RAM

Date: 07.10.2015

LSK