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

WRIT PETITION No.1517 of 2015

ORDER : (per Hon'ble Sri Justice R.Subhash Reddy)

This writ petition is filed by the petitioner questioning the assessment order vide TIN No.28918821441, dated 31.12.2014 issued in Form-305 by the 1st respondent-Assistant Commissioner (CT)(Audit), No.II Division, Vijayawada,

2. The petitioner is an assessee under the provisions of A.P. Value Added Tax Act, 2005 (for brevity "the Act") registered on the rolls of 2nd respondent-Commercial Tax Officer, Vijayawada, and was engaged in the business of execution of works contracts i.e., construction of houses to Greater Visakhapatnam Municipal Corporation, Visakhapatnam. It has also executed sub-contract works awarded by M/s. Ramkay Infrastructure Limited, Hyderabad, who is the Principal Contractor. The petitioner has opted to pay tax under Section 4 (7)(c) of the Act and filed Form VAT 250 before the 2nd respondent. The grievance of the petitioner is that for certain works executed to Naval Project, Visakhapatnam, though the contractee has issued tax deduction certificates in Form-501A and B, the 1st respondent has not given credit of the amounts covered

by the said certificates only on the ground that the said certificates do not contain unique ID number and the petitioner was directed to pay the entire tax due to the Department for the tax periods from June, 2013 to November, 2013. Aggrieved by the same, the petitioner has filed the present writ petition.

3. Learned counsel for the petitioner contended that the Certificates in Form-501A and B are issued by the contractee for execution of the works for the Government and Naval Project, which is a Government Undertaking and though the proof of payment of tax covered by the said certificates is not in dispute, the petitioner cannot be deprived of deduction of tax only on the ground that unique ID number is not mentioned on the said certificates. In support of his contention, the learned counsel has placed reliance on a judgment of this Court in BHARAT ELECTRONICS LIMITED VS. DEPUTY COMMISSIONER (CT) (A.P.)[1], wherein it was held that the assessee is to be given an opportunity to rectify the Forms so as to re-submit the same after rectification of defects.

4. Heard learned counsel for the petitioner and the learned Government Pleader for Commercial Taxes appearing for the respondents.

5. A perusal of the impugned assessment order dated 31.12.2014 shows that the claim made by the petitioner for deduction of tax covered by Form-501A and

B Certificates is refused only on the ground that unique ID number was not mentioned on the said certificates. It is to be seen that the works executed by the petitioner relate to Naval Project and payment of tax covered by the said certificates is not in dispute.

6. Therefore, in view of the judgment in BHARAT ELECTRONICS LIMITED (supra), we deem it appropriate to set aside the impugned order dated 31.12.2014 and remand the matter for fresh consideration by the 1st respondent. The 1st respondent is directed to return the Certificates in Form-501A and B submitted by the petitioner, if they are not in accordance with law. After return of the Certificates in Form-501A and B, the petitioner is directed to rectify the defects, if any, and re-submit the same within a period of eight weeks from the date of receipt of a copy of this order. On re-submission of such rectified Certificates, the respondent authorities are directed to consider such Certificates in Form-501A and B and pass appropriate orders in accordance with law by giving credit of the tax covered by the said Certificates.

8. Subject to the above directions, this writ petition is disposed of at the admission stage. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

Dr. JUSTICE B.SIVA SANKARA RAO

03.02.2015.
Msr

HON'BLE SRI JUSTICE R.SUBHASH REDDY
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[1] 46 VST 179