HON'BLE SRI JUSTICE R. SUBHASH REDDY

AND

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.22605 of 2008

ORDER : (Per Justice R. Subhash Reddy)

The petitioner is a Society registered under the Societies Registration Act and is running an Engineering College, namely, M/s.Aurora's Scientific, Technological & Research Academy (Formerly known as Sant Samarth Engineering College). In the writ petition, the petitioner is questioning the assessment orders dated 21.05.2007 for the assessment years 2003-04 to 2006-07, assessing the tax payable by the petitioner at Rs.3,87,660/- under the provisions of The Andhra Pradesh Tax on Professions, Trades, Callings and Employments Act, 1987 (hereinafter referred to as 'the Act').

2. Mainly, the said assessment orders are questioned on the ground that the same are passed without giving notice or opportunity neither to the petitioner-Society nor to the Correspondent of the Engineering College and also without following the procedure contemplated under the Act.

3. Counter affidavit is filed on behalf of respondents. In the counter affidavit, while denying the various allegations made by the petitioner, it is vaguely stated that the impugned orders of assessment are passed after issuing necessary show cause notice. Except this averment, there is no specific reference with regard to issuance of notice to the petitioner.

4. During the course of hearing, it is brought to our notice by the learned Standing Counsel appearing for respondents that pursuant to the show cause notice, reply was given by the Correspondent of the

Engineering college, as such, it is not open to the petitioner to plead that no notice and opportunity was given before passing the assessment orders.

5. A perusal of the reply, dated 11.06.2007, which is signed by the Secretary and Correspondent of the College shows that in the said reply, it is categorically pleaded that the professional tax payable by the College for the years 2003-04 to 2006-07 may be assessed after deducting the amount already paid to the Department, so as to pay the balance amount towards the professional tax. Material is also placed before this Court by the petitioner-Society, showing that it has brought to the notice of respondent-authorities about the number of employees working in the College and the tax which is already paid, but inspite of the same, in the impugned assessment orders, there is no reference to such payments. In the absence of considering such information furnished by the petitioner, the respondent-authorities ought not to have passed orders without giving further opportunity and without considering the material placed on record by the petitioner-Society. As it is stated that the entire amount is already collected, we deem, it is a fit case to pass fresh assessment orders by considering the objections of the petitioner-Society.

6. For the aforesaid reasons, the impugned assessment orders dated 21.05.2007 and the notice dated 30.07.2007, are hereby quashed, permitting the petitioner to furnish another set of objections with relevant material along with a copy of this order to the respondent-authorities within a period of four weeks from today. On furnishing such material and objections, the respondent-authorities shall consider the matter afresh and pass appropriate orders. It is needless to mention that the amount already paid by the petitioner pursuant to the impugned assessment orders shall be subject to further orders to be passed by the competent authority.

7. The writ petition is disposed of subject to the aforesaid directions.

No costs

Pending miscellaneous applications, if any, shall stand closed.

R. SUBHASH REDDY, J

DR. B. SIVA SANKARA RAO, J

20th April 2015

ajr