IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
****

W.P. No.21902 of 2015

Between:
Ch.Krishna Reddy
… Petitioner/Appellant(s)

And
The State of Andhra Pradesh,
Rep. by its Principal Secretary,
(CT-II), Department,
A.P. Secretariat, Hyderabad and others.
… Respondent (s)

DATE OF JUDGMENT PRONOUNCED: **20.07.2015**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI/SMT. JUSTICE ___________________________

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"

THE HONOURABLE SRI JUSTICE G.CHANDRAIAH
AND
THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

W.P. No.21902 of 2015

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

Petitioner challenges the endorsement dated 30.04.2015 rejecting the request of the petitioner to rectify the assessment order dated 17.10.2014, by taking into consideration VAT 250 declaration by the petitioner and thereby allowing credit of the TDS amounts deducted.

Learned counsel for the petitioner submitted that no opportunity of hearing is given in spite of the fact that the petitioner filed application dated 20.11.2014 and 13.04.2015 specifically seeking for opportunity of hearing. In that view of the matter, the learned counsel for the petitioner submits that there is a violation of the Rule 50 of the VAT Rules. Learned counsel also relies on the judgment passed in **S.S.ENTERPRISES, HYDERABAD Vs. COMMERCIAL TAX OFFICER, HYDERGUDA CIRCLE, HYDERABAD**[1] wherein Rule 50 of the Rules, which came to be considered.

Having considered the aforesaid submissions and on a close perusal of the endorsement dated 30.04.2015 it is evident that there is no denial of the fact by the Commercial Tax Officer that VAT 250 declarations were made by the petitioner. The rectification application was rejected on the ground that it is only the authority, who passed the assessment order, is entitled to rectify the mistake.

We are afraid that the stand of the Commercial Tax Officer,
2nd respondent, is not in accordance with Rules. In the event,

the Commercial Tax Officer was of the opinion that he is not the

to pass an order to make the rectification, he ought to have made over the file to the concerned authority or at least directed the petitioner to approach the 3rd respondent, who had made the assessment order rather than rejecting the application made by the petitioner.

The tax deducted at source (TDS) is the money belonging to the dealer and the same is required to be given credit in the process of making assessment even in the cases where contractor has opted for composition and the same is evident from Rule 18, which mandates that the TDS amount deducted from a dealer is required to be adjusted and in the process of adjustment, any amount in excess of tax liability needs to be refunded to the dealer and shortage shall be collected from the dealer.

In that view of the matter, such exercise having not been done by the 2nd respondent, the endorsement dated 30.04.2015 is not sustainable and thus set aside with a direction to the 3rd respondent to take into consideration the application of the petitioner for rectification of the mistakes and pass orders, in accordance with law, after providing an opportunity of hearing to the petitioner.

The writ petition is accordingly disposed of. As a sequel, miscellaneous petitions, if any, stands closed. There shall be no order as to costs.

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JUSTICE G.CHANDRAIAH

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JUSTICE CHALLA KODANDA RAM

Date: 20.07.2015
LSK

[1] 51 APSTJ 133