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

WRIT PETITION No.5138 of 2015

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

This writ petition is filed by the petitioner seeking *Mandamus* declaring the action of the 2nd respondent in proposing to make assessment on the basis of audit advise to levy tax at 14.5% on handicrafts treating them as general goods, without furnishing the authenticated copy of the alleged audit report, when the turnover of the petitioner is below Rs.40.00 lakhs, as arbitrary and illegal.

2. The petitioner is a proprietary concern carrying on business in cane works and is a registered dealer on the rolls of the 2nd respondent-Commercial Tax Officer, Governorpet Circle, Vijayawada. A show cause notice dated 7.2.2015 was issued by the 2nd respondent under the provisions of A.P. VAT Act, 2005 (for brevity "the Act") proposing to make assessment and levy tax at 14.5% on handicrafts for the period from 2011-12 to 2013-14 basing the advise of audit. Aggrieved by the same, the present writ petition is filed.

3. Heard learned counsel for the petitioner and the

learned Government Pleader for Commercial Taxes.

4. From a perusal of the impugned show cause notice dated 7.2.2015, it appears that the petitioner is maintaining cane furniture and earlier it used to file returns by showing them as handicrafts covered by Entry-99 of Schedule-IV. However, based on audit objection, the impugned show cause notice is issued to levy tax at 14.5% alleging that the goods manufactured by the petitioner fall under Schedule-V of the Act. It is submitted that pursuant to the notice dated 27.12.2014, when the petitioner has filed a letter dated 2.2.2015 requesting to furnish a copy of audit objection, though in the show cause notice dated 7.2.2015 it is stated that a copy of audit objection is enclosed, the same is not enclosed. It is stated that subsequently an unsigned copy of the same was furnished. The grievance of the petitioner is that though a copy of audit objection is furnished by the respondents, as it does not bear any signature, it is not known as to who has raised audit objection.

5. Now, the only question to be considered is, whether the goods manufactured by the petitioner fall under Entry 99 of Schedule-IV or they are covered by Schedule-V?

6. In the impugned show cause notice dated 7.2.2015, the petitioner is given time to file objections, if

any, before passing the assessment order. Therefore, if any objections are there, the petitioner can as well file such objections before the competent authority. As no final assessment orders are passed by the respondents, we do not find any reason to entertain this writ petition, at this stage.

7. For the aforesaid reasons, this writ petition is devoid of merits and is accordingly dismissed, 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

03.03.2015.

Msr

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