IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

W.P. No. 23989 of 2015

Between:

M/s.Parameshwar Minerals .. Petitioner

And

The Commercial Tax Officer

and three others .. Respondents

Date of Judgment Pronounced: 03.08.2015

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE G. CHANDRAIAH

&

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

1. Whether Reporters of Local newspapers Yes/No

may be allowed to see the judgments?

2. Whether the copies of judgment may be Yes/No

marked to Law Reporters/Journals

3. Whether Their Ladyship/Lordship wish to Yes/No

see the fair copy of the judgment?

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<u>O R D E R</u>:- (per Hon'ble Sri Justice Challa Kodanda Ram)

The impugned order dated 30.06.2015 passed by the 1st respondent levying penalty for the period from 2011-2012 to 2014-2015 (up to December, 2014) is challenged in this writ petition.

The learned counsel for the petitioner has contended that composite order for the entire period has been made which is impermissible in law and further the notice dated 12.06.2015 proposing to levy penalty was in fact received by the petitioner on 10.07.2015 but the impugned order was passed on 30.06.2015 i.e. even before the petitioner could submit any explanation thereto.

The learned Government Pleader for Commercial Tax (Telangana) has fairly submitted that inasmuch as the composite order has been made for the entire period and such course being impermissible in law, the impugned order may be set aside giving liberty to the authorities to pass appropriate orders.

We appreciate the fairness on the part of the learned Government Pleader for Commercial Tax.

Considering the submissions made by the learned counsel for both the parties and in view of the fact that the petitioner has already received show cause notice, we deem it appropriate to dispose of the writ petition with the following direction:

> "The petitioner is given liberty to file reply/explanation to the show cause notice dated 12.06.2015 by raising all objections if any both on facts and law within a period of three weeks from the date of receipt of a copy of this order. Upon such objections being filed, the 2nd respondent – Commercial Tax Officer shall pass appropriate orders in accordance with law after considering the objections that may be raised by the petitioner."

With the above direction, the writ petition is disposed of. No order as to costs.

As a sequel to the disposal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

G. CHANDRAIAH, J

03.08.2015

CHALLA KODANDA RAM,J

bcj