IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE A.V. SESHA SAI

WRIT PETITION No. 18436 OF 2006

Date: 03.02.2016

Between:

M/s. Jeedimetla Communication,

Rep., by its Proprietor,

R.R. District.

… Petitioner

And

The Commissioner,

Quthbullapur Municipality,

Ranga Reddy District.

… Respondent

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE A.V. SESHA SAI

<u>WRIT PETITION No. 18436 OF 2006</u>

ORDER: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Heard learned counsel for the parties.

In this writ petition, the petitioner seeks the following prayer:

> "For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue Writ of Mandamus or any other writ, order or direction, declaring that the petitioner is not liable to pay the entertainment tax on cable service provided by it to the cable operators in the absence of any prescription of the rules regarding the manner of levy, collection of tax, submission of returns by the petitioner, as Master Cable Operator as mentioned in Section 15A(3) of the Andhra Pradesh Entertainment Tax Act 1939 and consequently set aside the impugned notice of assessment and demand of the respondent dated 14-08-2006 for the period from 01.01.2003 to 30.06.2006 vide office proceedings in Lr.No.G/721/2001, seeking payment of entertainment tax of Rs.46,31,760/- (Rupees Forty six lakhs thirty one thousand seven hundred and sixty only) altogether in respect of which period entertainment tax has been collected by the respondent from the franchisee cable operators of the petitioner, as arbitrary, illegal, unjust and without authority of law and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case."

It appears, initially, on 27.07.2006 notice was issued to the petitioner under Section 15A of A.P. Entertainment Tax Act, 1939 read with G.O.Ms.No.708 (REV) CT-III, dated 03.10.2000. The petitioner replied to the notice vide their letter, dated 28.07.2006, raising certain questions/objections, which, according to the petitioner, go to the root and also demonstrate that they are not liable to pay the tax as demanded. Thereafter, the respondent issued final notice, dated 14.08.2006.

In the instant writ petition, both the notices, namely, notice, dated 27.07.2006, and final notice, dated 14.08.2006, have been challenged. We have perused the final notice, which, though make reference to notice, dated 27.07.2006, and the reply in the final notice we find that the questions/objections raised by the petitioner in their reply are not considered by the concerned authority.

Learned counsel for the respondent could not and did not point out from the final notice that the reply/representation of the petitioner to the notice, dated 27.07.2006, was considered by the respondent while issuing final notice. In view thereof, learned counsel for the parties have agreed for the following order:

“The respondent shall consider the petitioner’s reply/representation, dated 28.07.2006, to the notice, dated 27.07.2006, and pass fresh order/issue fresh final notice of demand, if necessary. The respondent shall grant an opportunity of being heard to the petitioner and decide the notice, treating it as show cause notice, and reply on merits in accordance with law as expeditiously as possible and preferably within a period of eight weeks from the date of receipt of this order. The petitioner is directed to communicate this order to the concerned authorities within a period of ten days from today. It is open to the petitioner to file additional reply, if they so desire, and place additional material on record in support thereof within a period of two weeks from today.”

With these observations, the writ petition is disposed of.

Miscellaneous petitions, if any, shall also stand disposed of. There shall be no order as to costs.

DILIP B. BHOSALE, ACJ

A.V. SESHA SAI, J

Date: 03.02.2016

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Note: Furnish C.C. today.