THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT. JUSTICE T.RAJANI

Writ Petition No.17475 of 2017

ORDER: (per Hon'ble the Acting Chief Justice Sri Ramesh Ranganathan)

Heard Sri P.Vasudeva Reddy, Learned Counsel for the petitioner and Sri M.Govind Reddy, Learned Special Standing Counsel for Commercial Taxes, appearing on behalf of the respondents and, with their consent, the Writ Petition is disposed of at the stage of admission.

The order under challenge in this Writ Petition is the assessment order passed by the Commercial Tax Officer, Hyderguda Circle, Hyderabad, for the assessment year 2013-14 under the Central Sales Tax Act. A notice was issued to the petitioner on 16.10.2016 asking them to show-cause why tax of Rs.29,60,908/- should not be levied upon them, and to furnish the statements of the Trading Account, Profit and Loss Account, Balance Sheet and Annual Report, duly certified by the Chartered Accountant. In reply thereto, the petitioner, by their letter dated 13.12.2016, furnished a break-up of their turnover contending that labour charges/installation of job works taken-up was for Rs.39,83,105/-, and high seas sales was for Rs.1,05,81,846/- (both of which are exempt from tax under the CST Act). They also filed extracts of their exempt sales invoices and contended that the exempt sales invoices reported by them were only as per the aforesaid details. They also forwarded copies of their audited balance sheet, along with the profit and loss account and auditors report, for the year 2013-14.

Curiously, in the assessment order dated 31.03.2017, the assessing authority subjected the labour charges, claimed as exempt by the petitioner, to tax at 14% on the ground that they did not file the work order copies entered with the parties nor the work details; with regards high seas sales, the entire turnover claimed as exempt by the petitioner was sought to be subjected to tax; and their claim was rejected, on the ground that mere filing of agreement copies was not sufficient, and they should have also filed copies of the bills of entry for granting exemption.

Sri P.Vasudeva Reddy, Learned Counsel for the petitioner, would contend, not without justification, that it is only if the assessing authority had asked the petitioner to furnish copies of these documents could they have been faulted for failure to do so; and, since these documents were not even directed to be produced, the assessing authority had acted in violation of principles of natural justice in subjecting the petitioner to tax under the Act without even affording them an opportunity of producing these documents.

Sri M.Govind Reddy, Learned Special Standing Counsel for Commercial Taxes, on instructions, would fairly state that the assessing authority is ready and willing to afford the petitioner one more opportunity of being heard; and to produce the documents referred to in the assessment order.

We consider it appropriate, in such circumstances, to set aside the impugned assessment order, and direct the petitioner to submit copies of the work orders and copies of bills of entry which the assessing authority has held were not submitted to him by the petitioner. It is open to the assessing authority, if he so chooses, to also inform the petitioner in writing of any other documents which he may require the petitioner to produce; and, on receipt of such intimation, the petitioner shall produce the said documents sought for by the assessing authority. The assessing authority shall complete the entire exercise of affording the petitioner an opportunity of being heard, and pass an order afresh in accordance with law at the earliest, in any event not later than two months from the date of receipt of a copy of this order.

The Writ Petition is, accordingly, disposed of. The miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, ACJ

T.RAJANI, J

Date:05.06.2017.
Note:
Issue C.C. within three days.
B/O
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