HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE MS. JUSTICE J. UMA DEVI

Writ Petition No.14930 of 2017

ORDER: (V. Ramasubramanian, J)

The petitioner has come up with the above writ petition challenging an order of assessment passed under the Telangana Value Added Tax Act, 2005.

2. Heard Mr. V. Bhaskar Reddy, learned counsel for the petitioner and Mr. J. Anil Kumar, learned special counsel for the Commercial Tax.

3. The only ground on which the impugned order of assessment is challenged is that the petitioner was not given sufficient opportunity to file a reply to the show cause notice and that there was gross violation of principles of natural justice.

4. It appears from the impugned order that a notice was issued in Form VAT 305A on 01-02-2017. It appears that without filing any reply, the petitioner approached the Assessing Officer requesting him to drop the proceedings in the light of a Government Memo No.33263/CT.II(1)/2010-5, dated 17-06-2011. But without considering the same, the Assessing Officer has passed the impugned order.

5. The Government Memo dated 17-06-2011 enables the builders of apartments, who have not registered and who have not opted for composition of tax under Section 4 (7) (d) of the Act to

register themselves as VAT dealers and pay tax @ 1% under composition scheme. They are also liable to pay interest.

6. Therefore, it is clear that even if the petitioner had not filed their response to the show cause notice, the Assessing Officer was obliged to take note of the circular and allow the petitioner to come under the composition scheme. Since this has not been done, the matter is required to be remitted back.

7. Accordingly, the writ petition is allowed, the impugned order is set aside and the matter is remanded back to the 1st respondent. Within 15 days from the date of receipt of a copy of the order, the petitioner shall file their objections. Thereafter, the Assessing Officer shall pass appropriate orders within a period of 30 days in the light of the Government Memo dated 17-06-2011 referred to above. There will be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

Date: 28-04-2017

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