**The Hon'ble Sri Justice C.V.Nagarjuna Reddy**

**and**

**The Hon'ble Sri Justice T.Amarnath Goud**

**Writ Petition No.33666 of 2017**

**Dt: 20-11-2017**

**Between:**

Peddi Srinivas Reddy

**….Petitioner**

**and**

State of Telangana
Rep. by its Prl.Secretary
Revenue (CT-II) Dept.,
Hyderabad and 2 others

**….Respondents**

**Counsel for the Petitioner:** **Mr.MVJK.Kumar**

**Counsel for the respondents:** **Mr.J.Anil Kumar**
**Spl.SC for Commercial Taxes (TS)**

**The Court made the following:**

**<u>Order:</u>** **(per Hon'ble Sri Justice C.V.Nagarjuna Reddy)**

This Writ Petition is filed for a Mandamus to declare the action of respondent No.2 in passing Order, dated 07.12.2016 *vide* proceeding in DC ORDER No.1 Rc.No.A8/99/2004 (STAT), without complying with the direction issued by the Sales Tax and VAT Appellate Tribunal, Hyderabad (for short 'the Tribunal') by its Order, dated 30-09-2013, in T.A.No.608 of 2009.

The petitioner is a works contractor and registered dealer on the file of respondent No.3. Assessment Order, dated 09-04-2002, for the assessment year 2000-2001, was revised by respondent No.2, in exercise of his *suo motu* revisional power, *vide* Order, dated 12-12-2005. The said Order was questioned by the petitioner in Tax Appeal No.608/2009 before the Tribunal. The said Appeal was partly allowed and partly remanded *vide* Order, dated 30.09.2013.

The demand pertains to hire charges of Rs.23,19,793/-. With regard to the said aspect, the Tribunal has observed that the same needs to be re-examined and accordingly, directed respondent No.2 to examine and pass appropriate order with reference to the books of accounts of the petitioner. In pursuance of the said order, respondent No.2 has passed a fresh order on 07-12-2016 confirming the view taken by him in the previous order.

The grievance of the petitioner in this Writ Petition is that before passing the impugned order, respondent No.2 has not issued notice calling upon him to produce the books of accounts *etc.*, and that therefore, the said Order is in violation of not only the principles of natural justice, but also the specific direction issued by the Tribunal in TA.No.608 of 2009.

Mr.J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes (TS), has placed before us the relevant record and submitted that notice, dated 28-12-2013, requesting the petitioner to produce the books of accounts and other documents was received by one person *viz.*, Prashanthi.

The learned Counsel for the petitioner seriously disputed the above submission of the learned Special

Standing Counsel and stated that the petitioner has nothing to do with the said Prashanthi.

While it is not possible for this Court to decide the above disputed aspect, what we, however, notice is that even assuming that the notice was received on behalf of the petitioner in 2013, respondent No.2 has passed the impugned order almost three years thereafter. In our opinion, respondent No.2 was under obligation to verify the reason for the petitioner not filing objections for three years. Having not passed the order for three years after issuing notice, respondent No.2 ought to have issued one more notice during the said period in order to give a fair opportunity to the petitioner to produce the books of accounts as per the direction issued by the Tribunal.

In this view of the matter, the impugned order of respondent No.2 passed behind the back of the petitioner cannot be sustained and the same is, accordingly, set aside. The petitioner is permitted to submit his books of accounts and other relevant documents within one month from today. On such submission, respondent No.2 shall pass a fresh order after giving the petitioner a reasonable opportunity of being heard.

Subject to the above direction, the Writ Petition is allowed.

As a sequel, WPMP.No.41874 of 2017, filed by the petitioner for interim relief, is disposed of as infructuous.

**(C.V.Nagarjuna Reddy, J)**

**(T.Amarnath Goud, J)**

**Date:** 20-11-2017
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