

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

WRIT PETITION No.11839 of 2017

ORDER: (per SK,J)

Pleadings in this writ petition being complete and arguments having been advanced by Sri S.Ravi, learned senior counsel appearing for Sri Ch.Pushyam Kiran, learned counsel for the petitioner, and Sri M.V.J.K.Kumar, learned counsel appearing for respondents 1 to 4, the matter is amenable to final disposal at the stage of admission.

Pursuant to the Order-in-Original dated 29.11.2013 passed by the Additional Commissioner of Customs, Excise and Service Tax, Hyderabad-IV Commissionerate, notice dated 08.03.2017 was addressed by the Assistant Commissioner of Service Tax, Division-III, under Section 87 of the Finance Act, 1994, to the Indian Oil Corporation Limited calling upon it to pay to the revenue the amounts due and payable by it to the petitioner. The complaint of the petitioner is that the Order-in-Original dated 29.11.2013 was never served upon him.

Along with the counter affidavit, the revenue produced a copy of the said Order-in-Original bearing an endorsement that it had been despatched. However, it is admitted that no actual proof is available of service of the said order upon the petitioner.

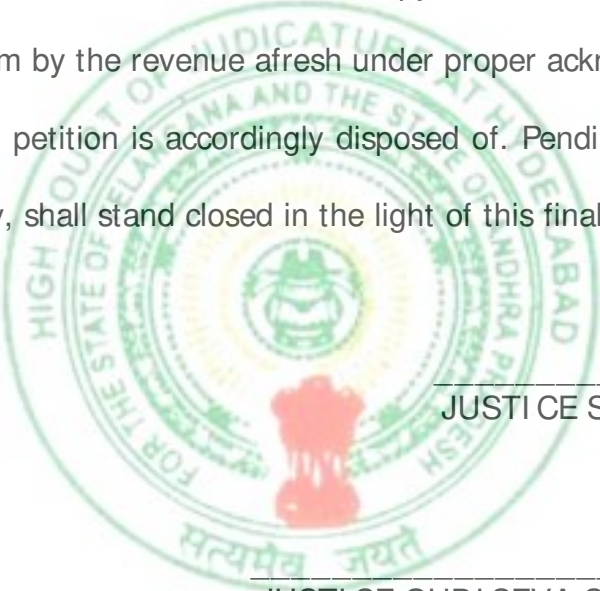
Sri S.Ravi, learned senior counsel, would point out that the despatch number mentioned on the copy of the order placed before this Court was sought to be tracked but the Tracking Report merely mentions the word 'expired' and does not indicate whether the item was delivered to the addressee.

Thus, as matters stand, we have no evidence of the Order-in-Original having been served upon the petitioner.

Sri M.V.J.K.Kumar, learned counsel, would fairly concede that as no material is available to prove that the said order was actually served upon the petitioner at an earlier point of time, a certified copy of the order would be despatched afresh to the petitioner.

Accepting the said submission, we set aside the Garnishee Notice dated 08.03.2017 addressed by the revenue to the Indian Oil Corporation Limited. It shall be open to the petitioner to avail appropriate remedies in accordance with law after a certified copy of the Order-in-Original is served upon him by the revenue afresh under proper acknowledgment.

The writ petition is accordingly disposed of. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.



JUSTICE SANJAY KUMAR

JUSTICE GUDI SEVA SHYAM PRASAD

Date:26.07.2017

GJ