THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION No. 15961 of 2017

ORDER: ***(Per VRS,J)***

As against the order of assessment, dated 31.03.2017, the dealer under the Andhra Pradesh Value Added Tax Act, 2005 has come up with the above writ petition, on the short ground of violation of the principles of natural justice.

2. Heard Mr. M.V.J.K. Kumar, learned senior counsel for the petitioner. Mr. Shaik Jeelani Basha, learned special standing counsel for Commercial Taxes (AP), takes notice for the respondents.

3. A portion of the impugned order is sufficient to dispose of the writ petition. Therefore, it is extracted as follows:

> *"Accordingly, this office issued a show cause notice in Form VAT-305A dt.13.03.2017 send through e-mail on 14.03.2017 and also served to the dealer through postal authorities by registered post with acknowledgment due on 18.03.2017. This office received acknowledgment on 20.03.2017 in the reference 9th cited, inviting their objections against the proposed tax of Rs.52,37,147/- (rupees Fifty two lakhs thirty seven thousand one hundred and forty seven only) for the years 2012-13 to 2015-16. The dealer did not file any objections against the proposed turnovers and taxes within the stipulated time.*
>
> *Again this office issued a notice of personal hearing dt.22.03.2017 for VAT-305A and dispatched by registered post with acknowledgment due and sent through e-mail on 22.03.2017 vide reference 10th cited, with a request to appear before the undersigned on 28.03.2017 along with documentary evidence. But the dealer did not respond to personal hearing notice on appointed date.*

> *Again issued a final notice on 28.03.2017 and the same was served to the dealer through e-mail on 28.03.2017 reference 11th cited, inviting their objections against the proposed tax of Rs.52,37,147/- for the years 2012-2013 to 2015-16."*

But, the petitioner has produced a print out of the e-mail sent by them to the Assessing Officer on 15.03.2017. If e-mail is a valid method of service of show-cause-notice for the Assessing Officer, a reply by e-mail is also a valid method of responding to the notice. Therefore, the Assessing Officer committed a mistake in not taking note of the reply sent through e-mail. On this short ground, the impugned order is liable to be set aside.

4. Hence, the Writ Petition is allowed, the impugned order is set aside, and the matter remanded back. The petitioner shall file a detailed reply to the show-cause-notice on or before 15.05.2017. Thereafter, the Assessing Officer shall fix a date for personal hearing, and after hearing the petitioner, pass final orders, in accordance with law.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J.

28th April, 2017

Note: Issue C.C. by 01.05.2017.
(b/o)
cbs

THE HON’BLE SRI JUSTICE V. RAMASUBRAMANIAN √

AND

THE HON’BLE MS. JUSTICE J. UMA DEVI

Writ Petition No. 15961 of 2017
(allowed)

28th April, 2017

cbs