* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SMT. JUSTICE T.RAJANI

+ Writ Petition No.30110 of 2017

% Date: 19-9-2017

Lokesh Machines Ltd., Rep. by its Managing Director,
B-29, EEIE, Stage-II, Balanagar, Hyderabad-37
... Petitioner

Vs.

$ 1. State of Telangana, Rep. by its Secretary (Revenue),
Secretariat, Hyderabad

2. Deputy Commissioner (CT),
Hyderabad (Rural) Division, Hyderabad

3. Commercial Tax Officer, Commercial Taxes Dept.,
Balanagar Circle, Hyderabad
... Respondents

! Counsel for Petitioner: Mr. C.V. Narasimham

Counsel for Respondents 1 to 3: Mr. M.Govind Reddy,
Spl. Standing Counsel

< Gist:

> Head Note:

? Cases referred:
Nil.

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SMT. JUSTICE T.RAJANI

Writ Petition No.30110 of 2017

Order: (per V.Ramasubramanian, J.)

The petitioner has come up with the above writ petition challenging a revision of assessment made under Section 32(2) of the Telangana Value Added Tax Act, 2005 read with Section 9(2) of the Central Sales Tax Act, 1956.

2. Heard Mr. C.V. Narasimham, learned counsel for the petitioner and Mr. M.Govind Reddy, learned Special Standing Counsel for the Department.

3. The only ground on which the petitioner challenges the impugned order is that without giving sufficient opportunities to the petitioner to explain the discrepancies allegedly found in 'F' Declaration Forms and without giving sufficient opportunity to the petitioner to produce supporting materials for establishing the movement of goods, in respect of which 'C' Declaration Forms had been filed, the impugned order has been passed.

4. The petitioner has filed the entire set of documents in the material papers filed along with the writ petition. It is clear from the impugned order that the original show cause notice proceeded on the basis that 'F' Declaration Forms were not produced. In the course of hearing, the Forms were produced. By that time, the Assessing Officer noted certain discrepancies. In other words, the petitioner did not have

opportunity to explain the discrepancy allegedly found. Even for establishing the movement of goods, the petitioner claims to have evidence. Therefore, we are of the considered view that the petitioner can be granted one opportunity.

5. In view of the above, the writ petition is allowed, the impugned order is set aside and the matter remanded back to the 3rd respondent. The petitioner shall produce proof of movement of goods before the 3rd respondent on a date of hearing fixed by the 3rd respondent. The 3rd respondent shall intimate the date of hearing at least seven days in advance. On the date of hearing, the petitioner shall not only produce proof of movement of goods but also explain the discrepancies pointed in the 'F' Declaration Forms. Thereafter, the 3rd respondent may pass orders afresh. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

T.RAJANI, J.

19th September, 2017.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SMT. JUSTICE T.RAJANI

Writ Petition No.30110 of 2017
(per VRS, J.)

19th September, 2017.
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