HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE MS. JUSTICE J. UMA DEVI

Writ Petition No.14871 of 2017

ORDER: (V. Ramasubramanian, J)

The petitioner, who is a registered dealer on the file of the 1st respondent herein, has come up with the above writ petition, challenging an order of assessment passed under the Central Sales Tax Act.

2. Heard Mr. S. Dwarakanath, learned counsel for the petitioner. Mr. S. Suribabu, learned special standing counsel takes notice for the Department.

3. The short ground on which the petitioner has directly come up with a writ petition challenging the order of assessment is that though they submitted a reply to the show cause notice furnishing details of freight charges collected from customers, the same has not been considered.

4. It is seen from the impugned order that the show cause notice was issued on 13-07-2015 to which the petitioner filed a reply dated 07-09-2015 followed by another letter enclosing 'C' Forms and 'F' Forms. In the reply, the petitioner has specifically dealt with the question of freight charges. But unfortunately, the 1st respondent has not even taken note of the reply in relation to freight charges.

5. Therefore, it is clear that the opportunity given to the petitioner by way of show cause notice has been rendered nugatory.

The opportunity to be given to an assessee is not an empty formality.

6. Therefore, on the above short ground, the writ petition is allowed, the impugned order is set aside and the matter is remanded back to the Assessing Officer. The Assessing Officer shall fix a date for personal hearing on which the representative of the petitioner shall positively participate. Thereafter the Assessing Officer shall pass orders afresh taking into account the objections. 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: 27-04-2017

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