THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P.No.31004 of 2017

Date: 13.11.2017

Between:

M/s.Reliance Big Entertainment Pvt. Ltd.,
H.No.1-2-213/1, Street No.9,
1st Floor, GHMC Ward Office Lane,
Domalguda, Hyderabad-29
Rep. by its Authorized Signatory
Shri M.V.L.Narasimha Rao,
S/o.M.R.K.Murthy, aged about 45 years … Petitioner

And

1. The Deputy Commissioner of CT,
   Secunderabad Division, Hyderabad,
   Telangana State.
2. The Assistant Commissioner of CT(LTU),
   Secunderabad Division, Hyderabad,
   Telangana State.
3. The Commercial Tax Officer,
   Tarnaka Circle, Hyderabad, Telangana State.
4. The State of Telangana,
   Rep. by its Principal Secretary,
   Revenue Department (CT),
   Secretariat Building, Saifabad,
   Hyderabad … Respondents

Counsel for the Petitioner : Mr. M.V.J.K.Kumar

Counsel for the Respondents: Mr.T.Vinod Kumar,
Special Standing Counsel for
CT (TS).

The Court made the following:

Order: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Writ petition is filed for issue of Mandamus to set aside order dated 28.03.2017 in DC.Order No.207 in R.C.No.R1/9/2015 of respondent No.1.

2. At the hearing, Mr.M.V.J.K.Kumar, learned counsel for the petitioner has not disputed that against the order impugned in this writ petition, his client has a remedy of appeal before the Value Added Tax Appellate Tribunal and that this remedy was by-passed as respondent No.1 has not given proper opportunity to the representative of the petitioner to plead his case. In support of this plea, the learned counsel has submitted that by letter dated 11.04.2016, the office of respondent No.1 was informed that the petitioner is closing the business premises and that with regard to the pending CST assessments and any other related matters for future correspondence, its local consultant Mr.M.V.L.Narsimha Rao will attend and give replies to further notices. That, the address of the said M.V.Narasimha Rao is also given in the said letter and that despite the said letter, notice has not been served on the petitioner's local consultant.

3. Mr.T.Vinod Kumar, learned Special Standing Counsel for Commercial Taxes for the State of Telangana, has seriously disputed the claim of the petitioner that the said letter was received in the office of 1st respondent. A perusal of the copy of the said letter shows

that it contains a seal of the office of the Deputy Commissioner. However, we do not find any initial on the seal. The plea taken by the respondents that the required intimation was sent to the known address of the petitioner and that the letter dated 11.04.2016 was never received in the office of respondent No.1, needs to be adjudicated by the Tribunal, based on the evidence to be adduced by both parties. Therefore, the writ petition is not an appropriate remedy.

4. Accordingly, the writ petition is dismissed, without adjudicating the same on merits of the case, with liberty to the petitioner to file an appeal before the Tribunal. Since the petitioner has been pursing the remedy of writ petition, it is permitted to file appeal within four weeks from today. If appeal is filed within the said time, the Tribunal shall entertain and adjudicate the same on merits.

5. As a sequel to dismissal of the writ petition, W.P.M.P.No.38269 is dismissed as infructuous.

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(C.V.Nagarjuna Reddy, J)

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(Challa Kodanda Ram, J)

Date: 13th November, 2017

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