HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HON'BLE MS. JUSTICE J. UMA DEVI

Writ Petition No.36822 of 2016

ORDER: *(per V. Ramasubramanian, J.)*

Challenging an Order of Revision passed under the Central Sales Tax Act, 1956, the dealer has come up with the above writ petition, on the short ground that after giving an opportunity to produce 'H' forms, the Authority passed the order even before.

2. Heard Mr. V.V. Anil Kumar, learned counsel for the petitioner and Mr. S. Suribabu, learned Special Standing counsel for the Commercial Tax (AP).

3. The positive case of the petitioner is that they filed their objections dated 15-07-2016 on 16-07-2016 and that they were granted time till 12-08-2016 for rectifying the defects found in the declarations namely 'H' forms. But even before those forms could be produced after rectification on 12-08-2016, the impugned order was passed on 10-08-2016.

4. It is true, as rightly contended by the learned special standing counsel for the department, that there is nothing on record to show that the dealer was granted time till 12-08-2016, but produced the rectified H forms. But the fact remains, that the petitioner did not participate in the personal hearing. The impugned order itself discloses that the petitioner did not participate in the personal hearing.

5. Irrespective of who was at fault, the undisputed fact is that the petitioner did not participate in the personal hearing. If only they had participated, they could have probably produced the rectified H forms. Therefore, in the light of the positive assertion about the time granted to them up to 12-08-2016 coupled with the fact that they could not appear for the personal hearing, we are of the considered view that one opportunity could be granted to the petitioner.

6. Hence, the writ petition is allowed, the impugned order is set aside and the matter is remitted back to the Revisional Authority. The petitioner shall submit the rectified H forms within a week on receipt of a copy of this order under acknowledgment. On the date on which the petitioner submits H forms, the Revisional Authority shall inform the date of personal hearing. The intimation of the date of personal hearing shall be made by the Revisional Authority under acknowledgment from the petitioner so that no dispute is raised in future regarding any failure to communicate the date of hearing.

On the date of hearing so fixed, the petitioner shall appear without fail and make out his contentions. Thereafter, the Revisional Authority may pass fresh orders on the merits of the case. There shall 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: 19-01-2017

Ksn