THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE T. AMARNATH GOUD

Writ Petition No.37395 of 2017

DATED:04-12-2017

Between:

M/s. Victory Eletricals Limited
Medchal
Represented by its Director
Mahindra Vaddineni … Petitioner

And

State of Telangana
Rep. by its Principal Secretary
Commercial Taxes Department
Secretariat, Hyderabad
and another … Respondents

COUNSEL FOR THE PETITIONER: Mr. Srikanth Hariharan

COUNSEL FOR THE RESPONDENTS: Mr. M. Govinda Reddy,
Special Standing
Counsel for
Commercial Taxes (TS)

THE COURT MADE THE FOLLOWING:

<u>ORDER:</u> *(per the Hon'ble Sri Justice C.V. Nagarjuna Reddy)*

This writ petition is filed for a mandamus to declare the notices for the Assessment of Entry Tax, dt.21.09.2017, seeking to levy entry tax for a sum of Rs.13,23,912 for the year 2011-12, Rs.13,79,525/- for the year 2012-13 and Rs.15,174/-for the year 2013-14, on the notified commodities of copper wires, electrical transformers, transformer spares based on the declaration in the "C" Forms submitted by the petitioner, as arbitrary and without jurisdiction.

At the hearing, Mr. Srikanth Hariharan, learned counsel for the petitioner, submitted that under the provisions of the Telangana Tax on Entry of Goods into Local Areas Act, 2001, the input raw materials for the manufacture of electrical transformers are exempted from the entry tax and that the petitioner being manufacturer of electrical transformers, it purchased the raw materials with the belief that they are exempted from payment of entry tax.

In our opinion, the liability of the petitioner has not been determined so far by respondent No.2. The question whether the issues raised by the petitioner regarding its liability needs to be determined by respondent No.2. It is not the case of the petitioner that respondent No.2 inherently lacks jurisdiction to issue notice. While exercise of jurisdiction not vested in a functionary is one thing, improper exercise of jurisdiction vested in him is quite another thing. Ordinarily, in the latter case the Court would not interdict the proceedings based on the denial of liability of a party. In this view of the matter, we perceive this writ petition as premature.

The petitioner is permitted to submit its objections to the impugned show cause notice within two weeks from the date of receipt of this order. On such objections being filed, respondent No.2 shall give an opportunity of personal hearing to the representative of the petitioner and after hearing the matter, he shall pass a speaking order. If the petitioner feels aggrieved by such order, it shall be free to avail appropriate legal remedy available to it, in accordance with law.

Subject to the above observations and directions, the writ petition is disposed of.

As a sequel to disposal of the writ petition, W.P.M.P. No.46448 of 2017 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

T. AMARNATH GOUD, J

04-12-2017
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