The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice T.Amarnath Goud

Writ Petition No.40827 of 2017

Dt: 04-12-2017

Between:

M/s.Kaveri Ginning Mills (Pvt.) Ltd.
Cotton Ginning and Oil Mills,
Velichala, Ramadugu Mandal,
Karimanagar, Telangana
Rep. by its Managing Director Sri K.Ramesh

....Petitioner

and

The Assistant Commissioner of Commercial Taxes (CT) LTU,
Mankamma Thota, Karimnagar and another.

....Respondents

Counsel for the Petitioner: **Dr.SRR.Viswanath**

Counsel for the respondents: **Mr.T.Vinod Kumar**
Spl.SC for Commercial Taxes (TS)

The Court made the following:

Order: **(per Hon'ble Sri Justice C.V.Nagarjuna Reddy)**

This Writ Petition is filed for a Certiorari to quash the Reassessment Order in Form VAT 305/A.O.No.36940, dated 31-10-2017, of respondent No.1.

We have heard Dr.S.R.R.Viswanath, learned Counsel for the petitioner, and Mr.T.Vinod Kumar, learned Special Standing Counsel for Commercial Taxes (TS).

The petitioner- Company is carrying on the business of cotton and its products. It is also registered with the Commercial Tax Department. For the assessment years 2012-2013 to 2014-2015, the petitioner has filed its returns and paid the admitted taxes. On 20-11-2015, respondent No.1 demanded an additional tax of Rs.2,33,923/- and penalty of Rs.23,392/- being 10% of the additional tax.

The petitioner averred that it has paid the said amount. However, respondent No.1 has issued the revised show cause notice, dated 27-09-2016, proposing to levy a tax of Rs.1,02,260/- besides proposing to disallow certain input tax credit for the years 2012-2013 and 2013-2014. Accordingly, a sum of Rs.6,21,775/- was proposed to be levied on the petitioner. The petitioner has submitted a detailed reply, dated 20-10-2016, disputing the proposed liability. By the impugned Order, dated 31-10-2017, respondent No.1 has confirmed the proposal made in the show cause notice to the extent of Rs.5,19,515/-.

The principal grounds, on which the petitioner has questioned the impugned order, are that respondent No.1 has no jurisdiction to pass the revised assessment order; that the same suffers from absence of any reasons; and that thereby, it falls foul of the principles of natural justice.

As regards the first ground, the learned Special Standing Counsel has not disputed the fact that in appropriate cases, it is only the Deputy Commissioner, who is competent to pass a revised order.

As regards the second ground that the impugned order is bereft of any reasons, a perusal of the said order shows that after narrating the background on the contents of the show cause notice, respondent No.1 has referred to the replies, dated 20-10-2016 and 30-10-2017, of the petitioner and rejected the same with a cryptic observation that the averments put forth by the petitioner were examined and "found untenable". Respondent No.1 has neither discussed the contents of the replies given by the petitioner nor assigned any reasons in support of his conclusion that the same are untenable. The learned Special Standing Counsel also did not dispute the fact that the impugned order is bereft of any reasons whatsoever.

The law is well settled that reasons constitute heart and soul of any order, which affects the rights of a party, and the absence of reasons vitiates the order (see **Hindustan Petroleum Corporation Limited vs. Darius Shapur, Chennai**[1]).

Therefore, the impugned order, dated 31-10-2017, passed by respondent No.1 is not sustainable in law and the same is, accordingly, set aside. Respondent No.1 is, however, permitted to pass a fresh order after considering the objections of the petitioner.

As a sequel, WPMP.No.50689 of 2017, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(T.Amarnath Goud, J)

Date: 04-12-2017
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[1] **(2005) 7 SCC 627 = AIR 2005 S 3520**