

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

THE HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.8875 OF 2018

Between:

M/ s.Rama Sai Traders, 19-3-36, 37,
Padarthivari Street, Sangadigunta, Guntur,
Guntur District, A.P. Rep. by its Proprietor
Kakarla Venkata Siva Rama Rao

...Petitioner

Vs.

The Commercial Tax Officer,
Main Bazar Circle, Rajaji Bhavan,
Near Jinnah Tower Centre,
Guntur Division, Guntur, A.P., and others.

.. Respondents

For Petitioner : Sri G. Narendra Chetty

For Respondents : G.P. for Commercial Tax.
Sri S. Suri Babu

Gist :

Head Note :

Cases Referred : Nil



HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.8875 OF 2018

ORDER: (per V. Ramasubramanian, J)

Aggrieved by an order of penalty passed under Sections 55 (2) and 53(3) of the Andhra Pradesh Value Added Tax Act, 2005, the Dealer has come up with the above writ petition.

2. Heard Mr.G.Narendra Chetty, learned counsel for the petitioner. Mr. S. Suri Babu, learned Special Standing Counsel takes notice for the Department.

3. The main grievance of the petitioner is that a show-cause notice dated 09.01.2018 was served on him on 18.01.2018 and the petitioner sent a reply dated 24.01.2018 seeking fifteen days time. But, without either rejecting the request or accepting the request, the impugned order of penalty was passed.

4. Though the Officer cannot really be found fault with, in view of the fact that the earliest notice sent by registered post returned with the endorsement 'intimation served', the fact remains that the petitioner did not have sufficient opportunity. The letter submitted by him on 24.01.2018 seeking time, was admittedly received by the Officer. But, there was no reply to the said letter. The petitioner cannot be expected to presume that he has been granted fifteen days time. Therefore, there appears to be violation of the principles of natural justice.

5. In view of the above, the writ petition is allowed and the impugned order is set aside. The petitioner shall file a reply to the show cause notice within a period of two (2) weeks from the date of receipt of

a copy of this order. Thereafter, the Officer shall fix a date for personal hearing and then pass orders in accordance with law.

6. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

ABHINAND KUMAR SHAVILI, J

March 22, 2018

Note:

Furnish CC tomorrow.

B/O.

KTL

