THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION Nos.14882 and 14986 of 2018
(on being mentioned)

COMMON ORDER: (per SK,J)

The petitioner in these cases is common. Its grievance was with regard to the action of the Commercial Tax Officer, Chittoor-I Circle, Chittoor District, in passing assessment order dated 19.09.2016 for the tax period 2011-12 to 2015-16 and the consequential penalty order dated 30.12.2016 basing thereon. The ground of challenge is that the sales turnover of the petitioner was assessed on the basis of only electricity bills without any other material or basis.

By order dated 30.04.2018, this Court opined that the petitioner should prove its *bonafides* by making payment of Rs.5.00 lakhs on or before 31.05.2018 and in the event it did so, this Court opined that its request for providing one more opportunity to show cause against the proposal would be considered favourably.

The matter is now coming up before this Court for reporting compliance with the aforestated order.

We are informed by Sri G.Narendra Chetty, learned counsel for the petitioner, and Sri Suribabu, learned special standing counsel for Commercial Taxes, that the petitioner complied with the aforestated conditional order and duly deposited the sum of Rs.5.00 lakhs as directed within the time stipulated.

That being so, the petitioner would be entitled to a fresh opportunity to show cause against the proposed assessment. Sri G.Narendra Chetty, learned counsel, would raise the issue of limitation also in this context. However, as the matter would now be considered afresh by the authority concerned in its entirety, we are not inclined to go into the merits of the contention raised by the learned counsel. We leave it open to the petitioner to raise this issue also before the said authority during the course of the opportunity granted to show cause against the proposed assessment.

The Commercial Tax Officer, Chittoor-I Circle, Chittoor District, shall consider the matter afresh in its entirety after giving due opportunity to the petitioner to show cause against the proposed assessment and also the issue of limitation raised by the petitioner and pass a fresh assessment order in accordance with law basing thereon. It would be open to the Commercial Tax Officer, Chittoor-I Circle, Chittoor District, to decide as to whether any levy of penalty is warranted or not. In the event he opines so, he shall duly follow the procedure laid down by law in that regard.

The writ petitions are accordingly allowed setting aside the assessment order dated 19.09.2016 and the penalty order dated 30.12.2016 impugned in these writ petitions. The Commercial Tax Officer, Chittoor-I Circle, Chittoor District, shall duly abide by the directions aforestated and take a decision afresh in accordance with law. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

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SANJAY KUMAR,J

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T.AMARNATH GOUD,J

Date:19.06.2018
GJ