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

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HON'BLE MS. JUSTICE J. UMA DEVI

<u>W.P.No.16106 of 2018</u>

Date: 01-05-2018

Between:

M/s. Usha International Limited, represented by its Executive Director Mr.V. Ravi Raju, Balanagar Township, Balanagar, Hyderabad, Ranga Reddy District

… Petitioner

And

The Joint Commissioner (Sales Taxes), (formerly known as Deputy Commissioner (CT), Hyderabad Rural Division, Hyderabad and 2 others

… Respondents

Counsel for the Petitioner : Mr. S. Dwarakanath

Counsel for Respondents : Mr. Shaik Jeelani Basha
Special standing counsel

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HON'BLE MS. JUSTICE J. UMA DEVI

Writ Petition No.16106 of 2018

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

Challenging a revision of assessment passed by the 1st respondent under Section 32 (2) of the Telangana VAT Act, 2005 read with Section 9(2) of the Central Sales Tax Act, 1956, the dealer has come up with the above writ petition.

2. Heard Mr. S. Dwarakanath, learned counsel for the petitioner. Mr. Shaik Jeelani Basha, learned special standing counsel takes notice for the respondents.

3. The main grievance of the petitioner is that despite a request having been made by the petitioner for a personal hearing, the impugned order was passed without granting a personal hearing.

4. It is seen from the impugned order that a pre-revision show cause notice was issued on 21-12-2015. The petitioner requested 30 days time to file a reply. After seeking time once more, the dealer filed a reply on 18-03-2016. Thereafter, personal hearing was accorded by a notice dated 23-05-2016. The date for personal hearing was fixed as 30-05-2016. But even as per the impugned order, the petitioner sent a letter dated 25-05-2016 requesting the 1st respondent to reschedule the date of personal hearing, as their consultant was expected to be away from the city.

5. After referring to the dealer's request made in their letter dated 25-05-2016 to reschedule the date of hearing, the 1st respondent has passed the impugned order on 07-04-2018, without either granting the request or rejecting the request.

6. We can understand if the 1st respondent was obliged to act in a time bound fashion and hence he could not accept the request of the petitioner for rescheduling the personal hearing. But it was not so. The date for personal hearing was neither modified nor confirmed. But the impugned order came to be passed after two years. If the 1st respondent could wait for two years to pass an order after the date originally fixed for personal hearing, we see no reason as to why one postponement and one accommodation could not have been granted. If the request of the dealer made on 25-05-2016 had at least been rejected, the responsibility would have been on the petitioner to some how appear for the hearing on 30-05-2016. That opportunity was also lost. Therefore, there is a clear violation of the principles of natural justice.

Hence, the writ petition is allowed and the impugned order is set aside. The matter is remanded back to the 1st respondent. The 1st respondent shall fix a date for personal hearing and intimate the same in advance to the petitioner. On the said date, the petitioner shall appear and make their submissions. Thereafter, the 1st respondent shall pass orders in accordance with law.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

Date: 01-05-2018

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