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

WRIT PETITION Nos.17007, 17013, 17031 and 17034 of 2018

COMMON ORDER: (per SK, J)

Grievance of the petitioner company in this batch of cases is with regard to the action of the Commercial Tax Officer (Audit), Punjagutta Division, Hyderabad, in passing separate assessment orders dated 29.03.2018 levying tax @ 14.5% under Section 4(7)(a) of the Telangana VAT Act, 2005 (for brevity, 'the Act of 2005').

Sri Bhaskar Reddy Vemireddy, learned counsel for the petitioner company, would state that the petitioner was under composition under Section 4(7)(b) of the Act of 2005 and had already paid tax by way of deduction at source @ 5% for the entire turnover. Learned counsel would further state that though the assessment orders dated 29.03.2018 record that sufficient opportunity was given to the petitioner company, there was a change of address of the petitioner company and even after receipt of notice by the individual Directors, steps could not be taken prior to passing of the assessment orders due to some disputes. Learned counsel would also state that if one opportunity is given to the petitioner company to produce its books of accounts before the Commercial Tax Officer (Audit), Punjagutta Division, Hyderabad, it would be in a position to demonstrate that tax has already been paid and that there is no cause for levying tax @ 14.5%.

Sri Vinod Kumar Tadakamalla, learned special standing counsel for Commercial Taxes, State of Telangana, does not dispute the fact that the office of the petitioner company changed its address but he would state that steps were not taken by it for making necessary entries in the records of the Commercial Tax Department.

Given the fact that the petitioner company claims that if it is afforded one single opportunity, it would be able to demonstrate before the Commercial Tax Officer (Audit), Punjagutta Division, Hyderabad, that no cause exists for levying tax at the enhanced rate, we are of the opinion that the Commercial Tax Officer (Audit), Punjagutta Division, Hyderabad, should look into this aspect of the matter so as to prevent injustice.

The writ petitions are accordingly disposed of directing that the assessment orders dated 29.03.2018, impugned in these writ petitions, be treated as show cause notices. The petitioner company shall forthwith approach the Commercial Tax Officer (Audit), Punjagutta Division, Hyderabad, along with its written reply and necessary material to demonstrate its stand. Thereupon, the Commercial Tax Officer (Audit), Punjagutta Division, Hyderabad, shall apply his mind afresh and take a decision basing on the reply of the petitioner company and the material produced by it within four weeks from the date of receipt of a copy of this order. Pending this exercise, no coercive steps shall be taken against the petitioner.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

5th JULY, 2018.

T. AMARNATH GOUD, J

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