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

WRIT PETITION NO.19460 of 2018

ORDER: (per SK,J)

Challenge in this writ petition is to the assessment order dated 26.05.2018 passed by the Deputy Commercial Tax Officer-III, Morrispet Circle, Tenali, in relation to the tax period from 01.05.2014 to 17.05.2017.

Perusal of the assessment order reflects that the Assessing Officer merely referred to the show cause notice issued, the objections received from the petitioner and summed up as under:

> 'Accordingly a show cause notice issued to the dealer requesting to file his written objections if any within 7 (Seven) days from the receipt of the notice. In response to that, the dealer filed his written objections. Having received from the objections, the audit officer reiterated the same demand with rule position laid down under APVAT Act 2005, hence the demand raised in the show cause notice is hereby confirmed.
>
> The amount of Rs.7,91,187/- shall be paid within 30 days of receipt of this order. Failure to make the payment will result in recovery proceedings under the APVAT Act 2005.'

Sri G.Narendra Chetty, learned counsel for the petitioner, would further inform this Court that by way of his objections submitted under letter dated 17.05.2018, the petitioner also sought a personal hearing but no such opportunity of hearing was afforded to him prior to passing of the impugned assessment order. Learned counsel would rely upon the judgments of this Court in S.LALAIAH & CO. v. THE DEPUTY COMMISSIONER (CT)[1], KIRBY BUILDING SYSTEMS INDIA LTD. v. DEPUTY COMMISSIONER (CT), CHARMINAR DIVISION[2] and

[1] (2007) 45 APSTJ 116 (AP)
[2] (2012) 54 APSTJ 44 (AP)

S.S.ENTERPRISES v. COMMERCIAL TAX OFFICER[3] to support his contention that the failure on the part of the Assessing Officer to afford a personal opportunity despite the same being requested would vitiate the assessment order.

We find merit in the submissions made by the learned counsel.

The impugned assessment order demonstrates in no uncertain terms that the Assessing Officer did not even record reasons as to why he rejected the objections raised by the petitioner. Though a Deputy Commercial Tax Officer may not be required to express reasons on par with a Judicial Officer, the assessment order must at least disclose clear consideration of the objections received in response to the show cause notice and the reasoning for rejection of such objections leading to the final assessment. The impugned assessment order falls short of the required standard in this regard.

Further, the Assessing Officer did not even disclose as to why he did not consider the request of the petitioner for a personal hearing. In the light of the precedential law cited supra, this failure would further taint the impugned assessment order.

On these grounds, the assessment order dated 26.05.2018 is set aside and the matter is remitted to the file of the Deputy Commercial Tax Officer-III, Morrispet Circle, Tenali, for consideration afresh of the entire issue after giving due opportunity of personal hearing to the petitioner. The Deputy Commercial Tax Officer-III shall fix the date for the personal hearing and give prior notice thereof to the petitioner to enable it to make arrangements to attend the same. Thereafter, he shall consider the entire

[3] (2010) 51 APSTJ 133 (AP)

issue on its own merits and in accordance with law and pass a reasoned assessment order.

The writ petition is allowed to the extent indicated above.

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

____

SANJAY KUMAR,J

____

T.AMARNATH GOUD,J

Date:13.06.2018

GJ