

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

Writ Petition No.20257 of 2018

ORDER:

Heard Sri P.S.P.Suresh Kumar, learned Counsel appearing for the petitioner and the learned Government Pleader for Prohibition and Excise for respondents.

The order of the first respondent-State Government passed vide Memo No.3843/Ex.II(2)/2018-3, dated 19.05.2018, dismissing the revision filed by the petitioner herein against the orders of confiscation, dated 19.03.2016, passed by the Deputy Commissioner of Prohibition and Excise, as confirmed in appeal by the 2nd respondent vide Orders, dated 11.08.2016, is under challenge in the present Writ Petition.

The respondent-Excise authorities pressed into service the provisions of the Telangana Excise Act and the Deputy Commissioner of Prohibition and Excise, Karimnagar Division/3rd respondent passed an order in Cr.No.98/2016/P&Ex/A2, dated 19.03.2016, under Section 46 (2) Excise Act, ordering confiscation of a lorry bearing No.MH-26H-5416, Engine No.TWE391063, Chasis No.TWE525461, and 18,000 Kgs., of White Jaggery to the State.

Aggrieved by the said Order of confiscation passed by the Deputy Commissioner, Prohibition and Excise, the petitioner herein filed a statutory appeal before the Commissioner of Prohibition and Excise, Telangana State. The Commissioner of Prohibition and Excise/2nd respondent in

CR.No.3368/2016/CPE/TS/D1, passed an order, dated 11.08.2016, modifying the orders passed by the primary authority, setting aside the orders of confiscation of lorry along with White Jaggery and imposing fine of Rs.5,50,000/-.

Aggrieved by the said order of the appellate authority, the petitioner herein preferred revision before the State Government/1st respondent herein. The State Government earlier on 05.10.2017 dismissed the revision filed by the petitioner herein and the same was the subject matter of W.P.No.44760 of 2017 before this Court. This Court vide Order, dated 29.12.2017, had set aside the order of the revisional authority and remanded the revision to the 1st respondent for fresh consideration. The operative portion of the said order, at paragraph Nos.7 to 9, reads as under:-

“Perused the impugned order, dated 05.10.2017, herein and the impugned order in W.P.No.40948 of 2017, which was allowed by this Court accepting the grounds raised by the writ petitioner therein. From the above impugned orders, it is clear that the routine orders came to be passed by the authorities in each and every case, that too, senior functionaries of the Government. The first respondent is aware that being a quasi judicial authority, the grounds raised in the appeal/revision filed before him, have to be analyzed in the light of the rules and regulations and thereafter, he has to pass an order. As the 1st respondent has passed the order impugned in a routine manner without application of mind and also without assigning any reasons in consonance with the rules and regulations, and such act of the 1st respondent results in multiplicity of cases before the High Court, this would

cause heavy burden on the authorities/Courts as a whole, resulting in wasting of precious time. Hence, the order impugned is liable to be set aside.

Accordingly, the order impugned is set aside and the revision filed by the petitioner before the 1st respondent is restored. The 1st respondent is directed to dispose of the revision afresh and pass appropriate orders, after affording an opportunity of hearing to the petitioner, within a period of four (04) weeks from the date of receipt of a copy of the order. Further the 1st respondent is directed to issue necessary instructions to the functionaries/officers exercising quasi judicial functions to ensure adherence to the principles of natural justice and pass speaking orders so as to avoid multiplicity of proceedings before the Courts.

With the above directions, the Writ Petition is allowed. No costs.”

Now, after the said remand, the first respondent herein passed the impugned Orders vide Memo. No. 3843/Ex.II(2)/2018-3, dated 19.05.2018. According to the learned Counsel appearing for the petitioner, the order passed by the first respondent-revisional authority is highly illegal, arbitrary, unreasonable and violative of Principles of Natural Justice. It is further submitted by the learned Counsel that despite the earlier orders passed by this Court in W.P.No.44760 of 2017 and the observations made therein, the first respondent herein passed the impugned order in routine and mechanical manner without even adverting to the contents of the revision filed by the petitioner herein.

A perusal of the impugned memo, dated 19.05.2018, in clear and vivid terms discloses that except extracting the instructions received from the Office of the Commissioner of Prohibition and Excise, the first respondent herein did not make any endeavour in the direction of adverting to the points raised in the revision by the petitioner. It is a settled and well established proposition of law as ruled out by the Hon'ble Apex Court, in the case of SIEMENS ENGG. & MFG.CO. v. UNION OF INDIA (AIR 1976 S.C., 1785) that where an authority makes an order in exercise of a quasi-judicial function, it must record its reasons in support of the order it makes and every quasi-judicial order must be supported by reasons and that the rule requiring reasons to be given in support of an order is, like the principle of audi alteram partem, a basic principle of natural justice which must inform every quasi-judicial process and this rule must be observed in its proper spirit and mere pretence of compliance with it would not satisfy the requirement of law.

In the instant case, it is very much evident from the reading of the impugned order that except stating that the individual did not furnish any new grounds, the first respondent herein while disposing of the revision did not advert to the grounds of revision filed by the petitioner herein. The mode and manner in which the first respondent proceeded with the matter and passed the impugned order can neither be sustained nor countenanced. In the considered opinion of this Court, the order

impugned in the present Writ Petition, passed by the revisional authority, cannot be sustained in the eye of law.

For the aforesaid reasons, this Writ Petition is allowed, setting aside the order passed by the first respondent vide Memo No.3843/Ex.II(2)/2018-3, dated 19.05.2018, and the revision filed by the petitioner stands restored to file for consideration of the first respondent in accordance with law after giving opportunity of personal hearing and by taking into consideration the observations indicated supra.

Miscellaneous petitions pending, if any, shall stand disposed of. There shall be no order as to costs.

Date :19.06.2018
smr

JUSTICE A.V.SESHA SAI

