

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

WRIT PETITION No.22322 of 2018

ORDER: (per SK, J)

Challenge in this Writ Petition is to the penalty order dated 31.03.2017 passed by the Commercial Tax Officer, Somajiguda Circle, Hyderabad, requiring the petitioner to pay penalty to the tune of Rs.69,89,034/- for the tax period 2012-13.

It is an admitted fact that the penalty order was based on the assessment order dated 30.01.2017 passed by the Commercial Tax Officer, Somajiguda Circle, Hyderabad. This order was the subject matter of appeal before the Appellate Deputy Commissioner, Commercial Taxes, Punjagutta Division, Hyderabad, and by order dated 15.05.2018, the said appeal was allowed setting aside the assessment order dated 30.01.2017. The appellate authority remanded the matter back to the Commercial Tax Officer, Somajiguda Circle, Hyderabad, for passing fresh orders in terms of the directions given by it after furnishing reasonable opportunity to the petitioner.

In the light of the aforestated facts, it is clear that the penalty order dated 31.03.2017 cannot stand as the foundation thereof, being the assessment order dated 30.01.2017, has already been set aside.

The writ petition is accordingly allowed setting aside the penalty order dated 31.03.2017. In consequence, the notice dated 20.06.2018 issued by the Assistant Commissioner (Sales Tax), Somajiguda Circle,

Hyderabad, would have to be read down deleting the penalty of Rs.69,89,034/- therein. The petitioner would only be liable to pay the entry tax amount quantified at Rs.1,55,436/- stipulated in the said notice. Needless to state, levy of penalty upon the petitioner, if any, in relation to the tax period would depend upon the fresh order of assessment that would be passed by the Commercial Tax Officer, Somajiguda Circle, Hyderabad.

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

2nd JULY, 2018.

SANJAY KUMAR, J

T. AMARNATH GOUD, J

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