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

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE MS.JUSTICE J. UMA DEVI

<u>+ WRIT PETITION No.41329 OF 2018</u>

% Date:16.11.2018

Between:

M/s.R.S.R. Traders, D.No.26/871, Nagendra Nagar,
Proddatur, Kadapa District, Rep. by its Proprietor.

… Petitioner

v.

$ The Commercial Tax Officer – II , Proddatur,
Vasanthapeta, Rameshwaram Road, Proddatur,
Kadapa District and another.

.. Respondents

! For Petitioner : Mr. G. Narendra Chetty

^ For Respondents : Mr. Shaik Jeelani Basha

< Gist :

> Head Note :

? Cases Referred : Nil

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HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE MS.JUSTICE J. UMA DEVI

WRIT PETITION No.41329 OF 2018

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

Aggrieved by an endorsement made by the Assessing Officer, refusing to accept the F - forms, on the ground that a period of more than four years have passed, the dealer under the Central Sales Tax Act 1956, has come up with the above writ petition.

2. Heard Mr. G. Narendra Chetty, learned counsel for the petitioner. Mr. Shaik Jeelani Basha, learned Special Standing Counsel takes notice for the respondents.

3. This is a case where the order of assessment under the CST Act, 1956, was passed way back on 28.03.2013. The Dealer claimed exemption of a turnover of Rs.3,12,06,737/- on the ground that they represented consignment sales. The Dealer also filed F-Forms. But, the F-Forms covered transactions for more than one calendar month. Therefore, the F-forms were returned.

4. Unfortunately, the petitioner re-submitted F-forms, only after nearly a period of five years of the orders of assessment. Therefore, by the impugned endorsement, the Assessing Officer refused to accept 13 F-forms representing a consignment sales of Rs.1,49,88,837/-. Therefore, the Dealer is before us.

5. It is true that the proviso to Rule 12(7) of the CST (Registration and Turnover) Rules, 1957, permits the prescribed authority to allow the assessee to furnish the declaration after the period prescribed, if the prescribed authority is satisfied that there was sufficient cause. On the basis of the said proviso to the Rule, this Court has even granted relief to a Dealer in WP No.27108 of 2017 by order dated 17.08.2017. It is also true that there is a circular of the Commissioner of Commercial Taxes, dated 10.05.2012, holding that if the Assessing Authority is satisfied that all goods dispatched had been accounted for in the other State and the transfer is not inter-State sale, he may accept F-Forms for calendar month either based on dispatch dates of goods or based on receipt dates of goods in the other State or a combination of both.

6. But, in the case on hand, the delay appears to be abnormal. If the delay is abnormal, a cloud will generally be cast upon the genuineness of the forms. We are not for a moment stating that the F-Forms now sought to be produced by the Dealer are not genuine. But with the increase in the number of days of delay, the credibility goes down.

7. It would have been a different matter if the dealer had been pursuing remedies against the order of assessment and the issue is kept alive. That is not the case here. Therefore, we are unable to grant any relief to the petitioner.

8. Hence, the writ petition is dismissed. It is open to the petitioner to work out his remedies if available in law, at least in respect of the Forms acceptable for a period of one month.

As a sequel thereto, miscellaneous petitions, if any pending, shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

November 16, 2018
KTL