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

WP NO. 39418 of 2018

ORDER: (Per Hon'ble Sri. Justice V. Ramasubramanian)

The petitioner has come up with the above writ petition challenging an order passed by the 1st respondent under the Central Sales Tax Act, 1956.

Heard S. Dwarakanath, learned counsel for the petitioner and Mr. Shaik Jeelani Basha, learned Special Government Pleader for Central Taxes appearing for the respondents 1 and 2.

The impugned order of assessment is dated 21.6.2017. As against the said order the petitioner filed an appeal with a delay. Since the delay was beyond the period after which it can be condoned, the same was not entertained. Therefore, the petitioner has come up with the above writ petition.

The reason stated by the petitioner is that one of the employees who was in charge, indulged in malpractices forcing the management to suspend him and initiate disciplinary proceedings. The petitioner claims that they were not aware of these orders. Therefore, the petitioner seeks one opportunity.

The reason why the petitioner seeks one opportunity is that 'F' forms submitted by the petitioner were rejected by the Assessing Officer, on the ground that the value of the goods transferred to branch office have not been disclosed in 'F' forms. But the claim of the petitioner is that the value was wrongly reported in the CST returns and that the amount indicated in the 'F' forms was more than the turnover. Therefore, they seek one opportunity to explain this discrepancy.

In view of the peculiar circumstances, even while granting an opportunity to the petitioner, we wanted to put them on condition. Therefore, on 8.11.2018 we passed an interim order to the following effect,

> "It is represented by Mr. S. Dwarakanath, learned counsel for the petitioner that the petitioner has already paid 12.5% of the disputed tax, for the purpose of filing an appeal. But , the employee, who was incharge and who was subsequently, suspended in contemplation of disciplinary proceedings, failed to file the appeal. The contention of the learned counsel for the petitioner is that the issue lies in a narrow campus.
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> Since the petitioner has already paid 12.5% of the disputed tax, the request of the petitioner for granting one more opportunity would be considered favourably, if the petitioner pays an additional amount equivalent to 12.5% of the disputed tax. The petitioner shall make such payment within a period of one week.
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> Post on 19.11.2018 for orders."

Pursuant to the aforesaid order, the petitioner made payment of Rs.9,59,190/-, representing 12.5% of the taxes for the year 2013-2014 (CST). The amount was paid on 13.11.2018.

Therefore, the writ petition is ordered, the impugned order is set aside and the matter is remanded back to the 1st respondent. The petitioner shall appear before the 1st respondent on 10.12.2018 and explain the discrepancies. After such personal hearing, the 1st respondent may pass orders afresh.

As a sequel, pending miscellaneous petitions, if any, shall stand closed. No costs.

JUSTICE V. RAMASUBRAMANIAN

Dt. 19.11.2018
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JUSTICE J. UMA DEVI

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