THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.42528 of 2017

02.01.2018

Between:

S.Samba Shiva Sastry

..Petitioner

and

The State of Andhra Pradesh,
represented by its Principal Secretary,
Commercial Tax Department, Guntur and others

..Respondents

Counsel for the petitioner: Mr.G.Tuhin Kumar

Counsel for the respondents: Mr.S.Suri Babu,
special standing counsel for Commercial Taxes (A.P.)

The Court made the following:

<u>ORDER</u>: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This writ petition is filed for a *mandamus* to set aside assessment order, dated 30.03.2016, and consequential order, dated 24.05.2016, imposing 100 % penalty, passed by respondent No.3.

2. The main plea on which the petitioner has questioned both the orders is that though he has intimated change of his address to the office of respondent No.3, all the proceedings *viz.*, audit objections, show cause notice and assessment order were sent to his previous address and therefore, the same were not received by him.

3. Mr.S.Suri Babu, learned special standing counsel for Commercial Taxes (A.P.) appearing for the respondents, on instructions, has stated that neither of the aforementioned proceedings was received by the petitioner as he has evidently changed his address under intimation to respondent No.3 and that respondent No.3 has treated all those proceedings having been served through affixure to the premises previously in occupation of the petitioner.

4. Inasmuch as in spite of intimation of change of address by the petitioner, respondent No.3 has not sent audit objections, show cause notice and assessment order were not sent to the present address of the petitioner, there is no service in the eye of law. Therefore, the petitioner is denied the opportunity of being heard and consequently, both the impugned orders were passed in violation of the principles of natural justice.

5. Accordingly, the impugned orders are set aside, without expressing any opinion on the merits of the case, with the direction to respondent No.3 to serve audit objections and show cause notice to the petitioner on the present address and pass a fresh assessment order after giving the petitioner an opportunity of being heard. The Writ Petition is, accordingly, allowed.

6. As a sequel to allowing the Writ Petition, I.A.No.1 of 2017 filed by the petitioner for interim relief stands disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

M.S.K.JAISWAL, J

02nd January, 2018
GHN