* HONOURABLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HONOURABLE SRI JUSTICE P.KESHAVA RAO

+ Writ Petition No.43677 of 2017

% 20-12-2018

M/s KLSR Infratech Ltd., Having its Regd. Office at
H.No.7/1/638 to 643/1/405, Flat No.406,
Laasya Block, Poojitha Estates, Sunder Nagar,
Erragadda, Hyderabad, Rep. by its Managing Director,
K.L. Sreedhar Reddy S/o Ramachandra Reddy,
Aged 49 years, R/o Villa No.78, Indu Fortune Fields,
13th Phase, KPHB Colony, Hyderabad-72

... Petitioner

Vs.

$ 1. The State of Telangana, Rep. by its Prl. Secretary (CT),
Revenue Dept., Secretariat, Hyderabad

2. Deputy Commissioner (State Tax) LTU,
Punjagutta Division, 5th Floor,
Mayur Kushal Complex, Abids, Hyderabad

... Respondents

! Counsel for the Petitioner: Mr. S.Ravi, Senior Counsel,
Representing Mr. Ch.Pushyam Kiran

Counsel for Respondents 1&2: Mr. J.Anil Kumar,
Spl. Standing Counsel

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> Head Note:

? Cases referred:
Nil.

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Order: (per V.Ramasubramanian, J.)

Aggrieved by a best of judgment assessment passed under the Telangana Value Added Tax Act, 2005, the dealer has come up with the above writ petition.

2. Heard Mr. S.Ravi, learned Senior Counsel for the petitioner and Mr. J.Anil Kumar, learned Special Standing Counsel for the respondents.

3. The impugned order is assailed by Mr. S.Ravi, learned Senior Counsel, primarily on two grounds viz., (a) that there was a violation of the principles of natural justice and (b) that the rate of tax applied even in respect of Government contracts for which the petitioner claimed concessional rate of tax under composition was not appropriate.

4. It appears from the proceedings dated 17-10-2017 that the petitioner, though was also guilty of dragging on the proceedings, had in fact furnished information with regard to 'C' Form utilisation, copies of TDS Certificates and copies of Form 250. But the grievance of the petitioner is that after supplying some information and documents, they did not get any further notice.

5. The second ground is that even as per the proceedings dated 17-10-2017, the petitioner had undertaken

works contracts for various Government Departments as detailed in the table found in the proceedings. But the Assessing Authority rejected the claim for concessional rate of tax on the ground that the option forms did not tally with the contract values.

6. But it is found that even in respect of some Forms viz., Form 250 where the amount tallied, the rate of tax has been applied at 14.5%, despite composition. The rate of tax wherever there is composition under Section 4(7)(b) of the Act is only 5%. Therefore, at least in respect of a portion of the turnover, the Assessing Officer has applied a wrong rate of tax, showing that there is a levy which is unauthorised in law to some extent.

7. On the first question, it is borne out by records that the petitioner was given even an opportunity of personal hearing. Therefore, the petitioner cannot really pitch his claim on the ground of violation of principles of natural justice except perhaps for a plea of mercy to produce all the records.

8. Therefore, the writ petition is allowed on a limited ground and the impugned order set aside. The 2nd respondent shall fix a date for personal hearing and inform the same in advance to the petitioner. On the date so fixed, the petitioner shall produce all Form 250s as well as other documents and demonstrate as to how the turnover in respect of the works contracts undertaken to the Government Departments tallies with the Forms. Thereafter, the Assessing Officer shall pass

orders afresh. Pending applications, if any, shall stand closed.

No costs.

V.RAMASUBRAMANIAN, J.

P.KESHAVA RAO, J.

20th December, 2018.
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Writ Petition No.43677 of 2017
(per VRS, J.)

20th December, 2018.
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