HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.3720 of 2019

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

1) Challenging an order of assessment passed pursuant to an audit for the assessment years 2016-2017 to 2017-2018 (upto June, 2017) under the Telangana Value Added Tax Act, 2005, the dealer has come up with the above writ petition.

2) Heard Mr.S.R.R.Viswanath, learned counsel for the petitioner. Mr.T.Vinod Kumar, learned Special Standing Counsel takes notice for the respondents.

3) The limited grievance with which the petitioner has come up with the above writ petition is that in response to the show-cause notice dated 23.01.2019, the petitioner merely sought seven days time to give a reply, but the same was rejected and the impugned order passed. Therefore, the grievance of the petitioner is one of violation of principles of natural justice.

4) It is seen from the impugned order that the show-cause notice in Form No.VAT 305/A, dated 23.01.2019 was served on the dealer on 23.01.2019. In response the petitioner filed a reply on 31.01.2019 seeking extension of time for giving reply, just by seven days.

5) But holding that the dealer was already allowed sufficient time for filing reply, the Assessing Officer passed the impugned order dated 31.01.2019.

6) Therefore, it is clear that the impugned order has been passed in violation of the principles of natural justice. The request made on 31.01.2019 was the first request made in response to the show-cause notice. The petitioner claims to have branches all over India. Infact the show-cause notice proposed to levy tax on an under declaration to the extent of Rs.3.00 crores. But eventually the under declaration was reduced only to Rs.34.00 lakhs. Considering the magnitude, time sought for by the petitioner on the first occasion, should have been granted to them.

7) Therefore, the Writ Petition is allowed and the impugned order is *set aside.* The petitioner is granted time upto 11.03.2019 to file a reply to the show-cause notice. Thereafter, assessing officer shall give a date for personal hearing, under intimation in advance. On the date of personal hearing the petitioner shall produce all records necessary for substantiating their claim. Thereafter, the assessing officer may pass orders in accordance with law.

8) As a sequel, miscellaneous petitions, if any, pending in the Writ Petition stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

Dr. SHAMEEM AKTHER, J

February 22, 2019
gkv

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT PETITION No. 3684 of 2019

Date: 22.02.2019

gkv