HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION No.5956 of 2019

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

1. Challenging the order of assessment passed under the Telangana Tax on Entry of Goods into Local Areas Act, 2001, the petitioner has come up with the above Writ Petition.

2. Heard Mr.Tej Prakash Toshniwal, learned Counsel for the petitioner, and Mr.T.Vinaod Kumar, learned Special Standing Counsel appearing for the respondents.

3. The impugned order is challenged on two grounds, namely (a) that the amount of tax determined under the impugned order is completely at variance with the amount indicated in the notice of assessment dated 04.07.2017 and (b) that the very authorization for assessment, followed the show cause notice but not preceded the show cause notice.

4. There is a dispute as to whether the authorization is necessary under the Telangana Tax on Entry of Goods into Local Areas Act, 2001. Therefore, we shall not go into it in this writ petition.

5. But, it is seen that under the notice of assessment dated 04.07.2017, the proposal was for levy of entry tax to the extent

of Rs.3,33,560/-. However, the amount levied under the impugned order is Rs.96,86,988/-.

6. This is sought to be explained by the learned Special Standing Counsel on the basis of the e-mail sent on 15.07.2017. In the attachment to the e-mail, the period from 2011-2012 to 2016-2017 is included. Therefore, it is the contention of the learned Special Standing Counsel that the original notice of assessment dated 04.07.2017 stood amended.

7. But, the main part of the e-mail dated 15.07.2017 does not even make a reference to the notice of assessment dated 04.07.2017. It does not also say that notice of assessment dated 04.07.2017 will stand amended as per the attachment. Without any clue as to why an attachment was made to an e-mail which does not contain any details, the department cannot contend that the notice was amended.

8. Therefore, we cannot accept the e-mail communication as an amendment of the notice of assessment.

9. Once the e-mail communication is rejected, as not amounting to the amendment of the notice of assessment, it follows as a corollary that the impugned order travels beyond the scope of the notice of assessment dated 04.07.2017. Therefore, as a consequence, the impugned order requires to be

set aside and the matter remanded back to the Assessing Officer.

10. In view of the above, the Writ Petition is allowed and the impugned order is set aside. It is open to the Assessing Officer to issue a fresh notice containing all details and follow the procedure prescribed by law, before passing any order.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. No order as to costs.

V.RAMASUBRAMANIAN, J

T.AMARNATH GOUD, J

16.04.2019
Gsn.