THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO
AND
THE HON'BLE SRI JUSTICE K.LAKSHMAN

WP.No.5441 of 2019

O R D E R: *(Per the Hon'ble Sri Justice M.S.Ramachandra Rao)*

This Writ Petition is filed by the petitioner challenging a Demand Notice dt.23.03.2018 issued by the 1st respondent demanding a sum of Rs.6,06,410/- alleged to be deferment amount payable for the years 2005-06 to 2008-09 within three days and threatening to levy penalty of 10% apart from interest @ 1% per month for each day delay.

2. Petitioner assails it on the ground that the demand is not valid and the petitioner has given particulars in para 6 of the affidavit as to why it is not valid.

3 According to the petitioner, repayment commences from 01.04.2020 for 2005-06 and so on, for other years mentioned thereafter and the 1st respondent is not right in insisting to make payment without giving any proper reasons. It is also contended that without passing any deferment proceedings, demanding the amounts towards deferment of tax is not justified.

4. Counter affidavit has been filed by the 1st respondent refuting the said contentions and taking the plea that though Sales Tax Holiday/Exemption has been given under G.O.Ms.No.108 dt.20.08.1996, but upon introduction of Value Added Tax Act, 2005 any industrial unit availing a tax holiday or tax exemption on the date of commencement of the Act shall be

treated as a unit availing tax deferment. However, it is not disputed that there is no such mention of this in the Demand Notice nor is there any break-up given in the Demand Notice as to how the amount Rs.6,06,410/- is arrived at by 1st respondent.

5. Accordingly, the Writ Petition is allowed; the impugned Demand Notice shall be treated as a show-cause Notice, to which the petitioner shall file a detailed explanation within a period of three (03) weeks from the date of receipt of a copy of this order; and the 1st respondent shall then pass a reasoned order in accordance with law and communicate it to the petitioner. No order as to costs.

6. Consequently, miscellaneous petitions pending if any shall stand closed.

M.S. RAMACHANDRA RAO, J

K.LAKSHMAN, J

15th October, 2019.
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