

**HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE P.KESHAHA RAO**

Writ Petition No.5650 of 2019

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

Challenging an Order of assessment passed under the CST Act, 1966, the Dealer has come up with the above Writ Petition.

2. Heard Mr.S.Ravi, learned Senior Counsel for the petitioner, and Mr.M.Govind Reddy, learned Special Standing Counsel for the Department.

3. As against the impugned Order of assessment, the petitioner filed an appeal, but there was a delay. The question as to whether the delay can be condoned after the deletion of the proviso to Section 31(A), is now pending consideration before this Court. Therefore, the petitioner has chosen to challenge the original order of assessment on the ground of violation of principles of natural Justice.

4. It is stated in the impugned order that the show cause notice, dated 26.08.2016, was sent through 'Registered Post with Acknowledgment Due' and the same returned back unserved by the postal authorities. It is claimed that final notices were also sent to the registered e-mail I.D.

5. The petitioners claim that they have not changed their addresses and that there was no way the notices, if sent by 'Registered Post with Acknowledgment Due', could have escaped their attention. In the light of such averment, we directed the learned Special Standing Counsel to produce the file.

6. The file discloses that the show cause notice sent by 'Registered Post with Acknowledgment Due' on 22.09.2016, was returned with the endorsement "insufficient address". On the envelop, the full address of the petitioner with the mobile number also is typed. The address tallies with the address given by the petitioner in the Writ Petition.

7. Therefore, it is a clear case where neither due to the fault of the petitioner nor due to the fault of the Department, the petitioner did not have the opportunity to show cause. Therefore, irrespective of where the fault lay, the fact remains that the petitioner was not given a fair opportunity to defend themselves against the proposal. Hence, they deserve one opportunity.

8. Therefore, the Writ Petition is allowed, the impugned Order is set aside. The petitioner may treat the impugned order itself as a show cause notice and file their response to the same on or before 10.04.2019. Thereafter, the Assessing Officer shall fix a date for personal hearing and pass a final order, preferably within a period of one month from the date of filing of the reply notice.

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

V. RAMASUBRAMANIAN, J

P. KESHA RAO, J

March 28, 2019
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