HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE P.KESHAVA RAO

Writ Petition No.6050 of 2019

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

Challenging a final order of assessment passed under the C.S.T.Act, 1956, for the year 2014-15, the Dealer under the Act has come up with the above Writ Petition.

2. Heard Smt.Apartna Nandakumar, learned Counsel for the petitioner, and Mr.J.Anil Kumar, learned Special Standing Counsel for the respondents.

3. The impugned order proceeds on the short ground that despite service of the show cause notice, dated 02.01.2019, and despite service of personal hearing notice on 05.02.2019, the Dealer failed to respond to both. Therefore, the impugned order was passed on the presumption that the Dealer has nothing to offer by way of objections.

4. But it is the positive case of the petitioner that they filed objections to the show cause notice and that they also appeared for personal hearing, when a notice was issued in the year 2018 and a personal hearing was conducted in 2018.

5. In the light of the specific objection raised by the petitioner, we directed the leaned Special Standing Counsel to produce the file. The file produced today discloses that a show cause notice was first issued on 20.04.2017 and that the petitioner gave a reply on 02.05.2017. The reply given to the show cause notice on 02.05.2017 is available in the file.

6. It appears that subsequently another notice was issued in May, 2018, to which the petitioner again gave a reply.

7. In fact, the show cause notice which preceded the order impugned in the Writ Petition is dated 02.01.2019. Even to this show cause notice, dated 02.01.2019, a reply was sent on 04.01.2019 and this reply is available in page No.17 of the file.

8. Therefore, the statement contained in the impugned order that the petitioner did not respond to the show cause notices, is not factually correct.

9. In view of the above, there has been a violation of principles of natural justice and hence the Writ Petition is allowed, the impugned order is set aside. The Assessing Officer shall now fix a date for personal hearing under advance intimation to the petitioner. The petitioner shall appear on the date fixed for personal hearing and produce all relevant forms and other documents. Thereafter, the Assessing Officer may pass Orders in accordance with law.

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

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

March 29, 2019
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