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

WRIT PETITION No.7489 of 2019

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

Challenging an order of assessment passed under the Telangana VAT Act, 2005, the petitioner has come up with the above Writ Petition.

Heard the learned Counsel for the petitioner and Mr.T.Vinod Kumar, learned Special Standing Counsel for the respondents.

The main ground of challenge to the impugned order is that the Assessing Officer has wrongly disallowed the input tax credit, on the ground that the petitioner could not claim ITC on exempt transactions and exempt sales.

But, the above ground is no ground to allow the petitioner to come with a Writ Petition bypassing the alternative remedy of appeal. The alternative remedy of appeal can be allowed to be bypassed only on certain parameters. The case on hand does not satisfy the same. Therefore, the petitioner should go before the first appellate authority.

It appears that the impugned order had been passed on 02.03.2019 and it was received by the petitioner on 07.03.2019. The limitation for filing an appeal was to expire on 07.04.2019.

Since 07.04.2019 happens to be a holiday, the petitioner filed the above Writ Petition on 08.04.2019. In other words, the Writ Petition can be taken to have been filed within the period of limitation for filing an appeal.

Since the Writ Petition is pending since then, we are of the view that the said period should be excluded.

In view of the above, the Writ Petition is dismissed with liberty to the petitioner to file a statutory appeal. But, if the petitioner files a statutory appeal on or before 10.05.2019, the same shall be treated as having been filed within the period of limitation.

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

V.RAMASUBRAMANIAN, J

P.KESHAVA RAO, J

30.04.2019
NOTE: Furnish CC today.
Gsn..