HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE P. KESHAVA RAO

WRIT PETITION No.8034 OF 2019

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

Challenging the order of assessment passed under the Central Sales Tax Act, 1956, the dealer has come up with the above writ petition.

2. Heard Mr. C.V. Narasimham, learned counsel for the petitioner, and Mr. J. Anil Kumar, learned special standing counsel for the respondents.

3. The impugned order of assessment is challenged on the short ground that a reply given to the show cause notice was not even referred to in the impugned order.

4. The impugned order contains a reference to two show cause notices, a show cause notice dated 15.11.2017 and a final notice dated 07.01.2019. According to the petitioner, they sent a reply dated 15.03.2018 to the first show cause notice and that consequent notice was not received.

5. According to the learned special standing counsel for the department, the reply dated 13.03.2018 was presented by the petitioner in the office of the Commercial Tax Officer, Rajendra Nagar Circle, as seen from the rubber stamp. Since the reply was addressed to the wrong office, the Assessing Officer had no occasion to receive the same and take the same into account.

6. It is stated by the learned counsel for the petitioner that the office of the 2nd respondent and the office of the Commercial Tax Officer, Rajendra Nagar Circle, are located in the same building and that there was a common inward *tappal.* Therefore, they had no opportunity to send it directly to the 2nd respondent.

7. Irrespective of who was right and who was wrong, the fact remains that the petitioner at least wanted to reply to the show cause notice. Therefore, the petitioner deserves one more opportunity.

8. In view of the above, the Writ Petition is allowed. The impugned order is set aside. Copy of the reply filed in the material papers shall be taken into account by the 2nd respondent. The 2nd respondent shall also fix a date for personal hearing. On the date fixed for personal hearing, the petitioner shall appear and present all documents and thereafter, the Assessing Officer may pass orders afresh, in accordance with law. No order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any pending, in the writ petitions stand closed.

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

April 25, 2019.
PV