HONOURABLE SRI JUSTICE SANJAY KUMAR
AND
HONOURABLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION No.8822 of 2019

ORDER: *(per Hon'ble Sri Justice Sanjay Kumar)*

The petitioner proprietorship is aggrieved by the dismissal of its appeal in T.A.No.114 of 2018 by the Telangana Value Added Tax Appellate Tribunal, Hyderabad (for brevity 'the Tribunal'), *vide* order dated 06.3.2019. The said appeal was filed by the petitioner proprietorship in relation to the assessment order dated 31.01.2017 of the Commercial Tax Officer, Punjagutta Division, Hyderabad, for the tax periods 2012-13 to 2015-16. The said assessment order was subjected to appeal before the Appellate Deputy Commissioner (Commercial Taxes), Punjagutta Division, Hyderabad, on 07.7.2017. The appellate authority however observed that there was a delay of 124 days in preferring the appeal and issued a notice to the petitioner proprietorship for a hearing on this aspect. After giving due opportunity of hearing to the petitioner proprietorship, the appellate Deputy Commissioner rejected the appeal on the ground of limitation. Aggrieved thereby, the petitioner proprietorship approached the Tribunal.

Perusal of the order under challenge demonstrates that the Tribunal took note of the statutory provisions, *viz*., Section 31(1) of the Telangana Value Added Tax Act, 2005, and Rule 64 of the Telangana Value Added Tax Rules, 2005.

It is an admitted fact that the said assessment order dated 31.01.2017 was sent by speed post to the address of the petitioner proprietorship and was duly received by one Murthy, who acknowledged receipt of the same on behalf of the petitioner proprietorship, on 03.02.2017 by affixing its stamp and also mentioning his mobile number.

It is the case of the petitioner proprietorship that the said person was its watchman and therefore service on him would not amount to proper service. The Tribunal however found no merit in this contention in the light of Rule 64 of the Telangana Value Added Tax Rules, 2005. This Rule authorises service being effected on an individual in a representative capacity also. The very fact that the watchman was provided with the stamp of the petitioner proprietorship indicates that he was authorised to receive communications on its behalf and acknowledge such receipt by affixing his signature along with the stamp. It is therefore not open to the petitioner proprietorship to claim ignorance of the assessment order dated 31.01.2017 once it was served upon its authorised representative on 03.02.2017 itself.

That being so, the attempt of the petitioner proprietorship to explain only the delay of 12 days, being the delay after receipt of a certified copy of the assessment order much later, cannot be countenanced. As the petitioner proprietorship never explained the delay of 124 days, being the delay reckoned from the date of service of the assessment order, *viz.*, 03.02.2017, this Court finds no grounds to interfere in the matter.

The Writ Petition is devoid of merit and is accordingly dismissed.

Pending Miscellaneous Petitions, if any, shall also stand dismissed. No order as to costs.

JUSTICE SANJAY KUMAR

JUSTICE T.AMARNATH GOUD

26th June, 2019
dr