HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE P.KESHAVA RAO

WRIT PETITION No.8397 OF 2018

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

Challenging an order of assessment and an order of penalty, the dealer under the Telangana Value Added Tax, 2005, has come up with the above Writ Petition.

Heard Mr.B.Vijaysen Reddy, learned counsel for the petitioner and Mr.T.Vinod Kumar, learned Special Standing Counsel for the department.

As stated earlier, the petitioner has challenged both the order of assessment as well as the order of penalty. The order of assessment dated 18.05.2017 proceeds on the basis that a show cause notice was issued on 02.03.2017 and that the petitioner filed the purchase invoices for the purchase of gunnies, twine and machinery in response to the said notice.

Whatever was filed in response to the show cause notice was verified and found to be in order and input was allowed on the purchase of those turnover.

However, when the dealer filed Annual Audit Report for the years 2012-2013 and 2013-2014, some more facts were revealed leading to the Assessing Officer issuing a revised show cause notice. Despite service of the revised show cause notice dated 21.04.2014, the petitioner did not file any objections. Therefore the Assessing Officer passed an order of assessment quantifying the tax to be paid as Rs.1,04,86,268/-.

As against the said order of assessment, the petitioner had an alternative remedy of appeal to the appellate Deputy Commissioner. But the petitioner - firm did not avail this opportunity. They did not also come up with any Writ Petition as against the order of assessment.

Consequentially, penalty proceedings under Section 50(3), 51(1) and 53(3) of the Act were initiated. The petitioner appears to have sought time. But the respondents passed an order of penalty on 02.01.2018.

It is only thereafter that the petitioner has woken up and come up with the above Writ Petition challenging both the order of assessment and penalty.

The claim of the petitioner is that input credit was not given in respect of various invoices. But unfortunately, the petitioner did not produce the invoices in response to the revised show cause notice. Whatever invoices were produced in response to the first show cause notice dated 02.03.2017 were accepted by the Assessing Officer and input was allowed. Therefore, the department cannot be blamed.

Apart from their failure to respond to the revised show cause notice, the petitioner has also missed the opportunity of filing a statutory appeal until penalty proceedings concluded and a demand notice was issued. Therefore, the petitioner-firm has to be blamed for the state of affairs.

We find no merits in the Writ Petition and hence it is dismissed. No order as to costs.

Consequently, miscellaneous petitions if any pending in the Writ Petition shall stand dismissed.

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

28.01.2019
vhb/smr