HONOURABLE SRI JUSTICE SANJAY KUMAR
AND
HONOURABLE SRI JUSTICE P.KESHAVA RAO

SPECIAL APPEAL No.1 of 2019

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

This Special Appeal arises under Section 35 of the Telangana Value Added Tax Act, 2005 (for short 'the Act of 2005'). The appellant suffered an assessment to tax for the tax period November, 2012 to January, 2014, under Section 4 (4) of the Act of 2005 and filed an appeal before the Appellate Deputy Commissioner (CT), Punjagutta Division, Hyderabad. The said appeal was allowed in part by the appellate authority by order dated 28.4.2015. The allowed part of the appeal related to levy of tax under Section 4(4) of the Act of 2005 on purchase of old gold/jewellery from unregistered dealers which was transferred to branches of the petitioner in other States. In so far as the rest of the appeal was concerned, the appellate authority remanded the matter to the assessing authority for consideration of the issue of restriction of input tax credit on account of branch transfers. Consequently, orders were passed by the assessing authority, *viz*., The Commercial Tax Officer, Somajiguda Circle, Hyderabad, *vide* order dated 28.9.2015, levying tax under Section 4 (4) of the Act of 2005 and restricting the input tax credit on account of branch transfers.

Revision show cause notice under Section 32 (1) of the Act of 2005 was thereupon issued by the Commissioner of Commercial Taxes, Telangana State, Hyderabad, resulting in the impugned order dated 27.4.2019.

Sri S.Dwarakanath, learned counsel for the appellant, would refer to the various questions of law that would ostensibly arise in relation to the impugned revisionary order. However, we are of the opinion that this appeal is amenable to disposal on other grounds.

Perusal of the impugned revisionary order demonstrates that though the appellant was put on notice requiring it to submit its objections, if any, along with documentary evidence, it admittedly failed to do so. In such circumstances, though we cannot find fault with the revisionary authority for proceeding in the matter unilaterally, the fact remains that the revisionary order has adverse financial implications upon the appellant apart from laying down a legal principle with regard to interpretation of the statutory provision. As such an interpretation would have a continuing effect and as the appellant admittedly did not choose to avail the opportunity to put forth its case before the revisionary authority, we are of the opinion that one last opportunity should be afforded to the appellant to go before the revisionary authority so as to explain its stand with the help of documentary evidence and case law. On this short ground, the appeal is allowed setting aside the order dated 27.4.2019 of the Commissioner of Commercial Taxes, Telangana State, Hyderabad. The Revision initiated by the Commissioner under Section 32 of the Act of 2005 shall stand remitted to the file of the revisionary authority for consideration afresh on merits after giving due opportunity of hearing to the appellant. The revisionary authority shall issue a fresh notice affording reasonable time and opportunity to the appellant to come

forward along with documentary evidence and case law in support of its stand. The revisionary authority shall thereafter afford an opportunity of oral hearing to the appellant and pass appropriate orders in the Revision.

Pending Miscellaneous Petitions, if any, shall stand closed in the light of this final order. In the circumstances, there shall be no order as to costs.

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JUSTICE SANJAY KUMAR

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JUSTICE P.KESHAVA RAO

05th July, 2019
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