THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.14432 of 2019

ORDER: (per SK,J)

The prayer of the petitioner company in this case reads as under:

> 'For the reasons and in the circumstances stated in the Accompanying Affidavit, the petitioners herein pray that this Hon'ble Court may be pleased to issue a writ, order or direction one more in the nature of MANDAMUS declaring the assessment order passed by the 1st respondent vide A.O.No.7960 dated 19-02-2019 to the extent it levies additional tax contrary to sections 3, 6 and 8 of the Central Sales Tax Act, 1956, and in violation of articles 14, 245, 246 (r/w entries 92 A of the Union List and entry 54 of the State List at the relevant time), 265 and 300-A of the Constitution as arbitrary, illegal without jurisdiction and set aside the same and pass such other order or orders as are deemed fit and proper in the facts and circumstances of the case and do justice.'

2. Dr.S.R.R.Viswanath, learned counsel for the petitioner company, would contend that the Assistant Commissioner (ST), Malkajgiri Circle-II, Saroornagar Division, Hyderabad, the first respondent, passed the impugned final assessment order for the year 2015-16 assessing the petitioner company to tax under the Central Sales Tax Act, 1956 (for short, 'the Act of 1956'), erroneously inasmuch as the transactions of the petitioner company were all intra State sales during the relevant period but the first respondent has assessed the said transactions to tax treating them as exports or inter State sales. He would further contend that the question of assessment under the Act of 1956 did not arise as there were no inter State sales at all.

3. The matter was adjourned on 15.07.2019 to enable Sri Vinod Kumar Tadakamalla, learned special standing counsel for Commercial Taxes, State of Telangana, to get instructions in the matter.

4. Today, Sri Vinod Kumar Tadakamalla, learned special standing counsel, would inform this Court that his instructions are to the effect that the first respondent would undertake a fresh determination by issuing a show cause notice afresh to the petitioner company inasmuch as the earlier proceedings were defective to some extent.

5. As we are now informed that the first respondent himself wishes to undertake a fresh assessment from scratch, we are of the opinion that no adjudication is required in this writ petition.

6. The writ petition is accordingly allowed to the extent of setting aside the impugned assessment order dated 19.02.2019 and remitting the matter to the first respondent for consideration from the stage of issuance of a fresh show cause notice to the petitioner company, if warranted. The first respondent shall afford an opportunity of personal hearing to the petitioner company in the event he undertakes a fresh assessment in relation to the subject transactions.

7. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

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SANJAY KUMAR,J

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T.AMARNATH GOUD,J

Date:17.07.2019

GJ