THE HONOURABLE SRI JUSTICE SANJAY KUMAR
AND
THE HONOURABLE SRI JUSTICE K. LAKSHMAN

WRIT PETITION NOS.20041 AND 20309 OF 2019

COMMON ORDER
(*Per Hon'ble Sri Justice Sanjay Kumar*)

The petitioner concern being the same in these two cases, they are amenable to disposal by way of this common order.

2. In W.P.No.20041 of 2019, the petitioner concern assails the assessment order dated 25.02.2019 passed by the Deputy Commercial Tax Officer No.III, Enforcement Wing, Office of the Commissioner (Commercial Taxes), State of Telangana, Hyderabad, under the Telangana VAT Act, 2005. In W.P.No.20309 of 2019, the petitioner concern assails the penalty order dated 13.03.2019 which was passed as a consequence of the assessment order dated 25.02.2019. The aforestated assessment proceedings relate to the tax period 2015-16 to 2017-18. The penalty however pertains to the tax period July, 2015 to June, 2017.

3. The case of the petitioner concern is that the assessment was undertaken by the authority concerned without serving a show-cause notice upon it before hand. The petitioner concern asserts that the show-cause notice and the assessment order were served upon it on the same day, i.e., 25.02.2019 and that signatures were obtained forcibly on two of its blank letter heads.

4. In the light of the allegations made, Sri M.Govinda Reddy, learned Special Standing Counsel for Commercial Taxes, State of Telangana, sought time to get instructions. Today, he would inform this Court that in the light of the complaint of the petitioner concern that it was not offered an opportunity of hearing prior to the assessment, an opportunity may be provided to it.

5. We also find from the penalty order that the show-cause notice was served upon the petitioner only on 25.02.2019 and the assessment order bears the very same date. This fact is sufficient in itself to lend support to the allegation of the petitioner concern that it was denied an effective opportunity to respond to the said show-cause notice.

6. The writ petitions are accordingly allowed setting aside the impugned assessment order dated 25.02.2019 and the penalty order dated 13.03.2019. The Deputy Commercial Tax Officer concerned shall issue a fresh notice to the petitioner concern and undertake assessment after giving due opportunity to the petitioner concern, including a personal hearing.

7. Pending miscellaneous petitions in both cases shall stand closed in the light of this final order. No order as to costs.

____
SANJAY KUMAR, J

____
K. LAKSHMAN, J

30th SEPTEMBER, 2019

Svv