THE HON'BLE SRI JUSTICE SANJAY KUMAR

AND

THE HON'BLE SRI JUSTICE K. LAKSHMAN

WRIT PETITION No.19285 OF 2019

ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

Challenge in this writ petition is to the order dated 05.08.2019 passed by the Assistant Commissioner (State Tax), Rajendranagar Circle, Hyderabad, in relation to the tax period 2014-15 to 2017-18 under the Telangana Value Added Tax Act, 2005.

2. Though the order is appealable, we are of the opinion that the petitioner is justified in approaching this Court under Article 226 of the Constitution of India as the impugned assessment order is bereft of application of mind. Perusal of the order reflects that the Deputy Commissioner (Commercial Taxes), Saroornagar Division, Hyderabad, authorized the Assistant Commercial Tax Officer, Rajendranagar Circle, Hyderabad, to conduct audit of the returns filed by the petitioner and during the course of such audit, the correctness and completeness of the returns filed by the petitioner were verified with reference to the turnovers recorded in the purchase bills, sales bills and books of accounts etc., maintained by it. The assessment order also sets out the details of the transactions of the petitioner during the relevant period.

3. The Assistant Commissioner, however, recorded that though a show-cause notice was issued to the petitioner resulting in the reply

dated 15.07.2019, whereby the petitioner stated that it had effected exempted sales of goods purchased by it from outside the State, the petitioner had not submitted any evidence in support of its claim and confirmed the tax payable at Rs.3,06,03,265/-.

4. Mr. V. Bhaskar Reddy, learned counsel for the petitioner, would contend that once the transactions of the petitioner during the relevant period were subjected to audit and were found to be genuine, it was not open to the Assistant Commissioner to brush aside the same on the ground that no evidence has been produced and mulct the petitioner with an exorbitant liability. He would assert that the petitioner was not even made aware as to what more evidence was required of it.

5. We find merit in the submission made by the learned counsel as it was for the Assistant Commissioner to specifically call upon the petitioner in the event any further information, in particular, was sought. Merely issuing a show cause notice calling for objections would not suffice in this regard. The impugned assessment order dated 05.08.2019 is accordingly set aside on this short ground and the matter is remitted to the file of the Assistant Commissioner (State Tax), Rajendranagar Circle, Hyderabad, for consideration afresh. The Assistant Commissioner shall cause a fresh show cause notice to be served upon the petitioner, if he so chooses, detailing the evidence that he requires from the petitioner. After considering the reply and material, if any, filed by the petitioner in response thereto and after

affording an opportunity of personal hearing, the Assistant Commissioner shall complete the assessment.

The Writ Petition is allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall also stand dismissed. There shall be no order as to costs.

SANJAY KUMAR, J

K. LAKSHMAN, J

September 17, 2019
KTL/Mgr