HONOURABLE SRI JUSTICE SANJAY KUMAR

AND

HONOURABLE SRI JUSTICE K. LAKSHMAN

W.P. No.21011 OF 2019

ORDER: (Per Honourable Sri Justice Sanjay Kumar)

Challenge in this writ petition is to the assessment order dated 30.07.2019 passed by the Joint Commissioner (ST), Hyderabad (Rural) Division, Hyderabad, in relation to the tax period 2012-13 to 2014-15 under the Telangana Value Added Tax Act, 2005.

2. Perusal of the record reflects that the petitioner submitted letter dated 09.07.2019 seeking thirty (30) days time to respond to the pre-revision show cause notice dated 21.06.2019 issued by the Joint Commissioner. The said letter was received on 09.07.2019. There is no indication of the request of the petitioner having been refused or denied. In spite of the same, the Joint Commissioner proceeded to complete the assessment, vide the impugned order dated 30.07.2019. Though the order records that the petitioner failed to file his submissions even after availing sufficient time and that such failure can be construed to mean that it has no objection to the taxes proposed to be levied by way of the pre-revision notice, we are of the opinion that it was incumbent upon the Joint Commissioner to reject the request of the petitioner for further time, as set out in the letter dated 09.07.2019, if he was not inclined to accede to the same. Without doing so, it was not open to the Joint Commissioner to complete the

assessment before expiry of the time sought by the petitioner under the said letter. The assessment by the Joint Commissioner therefore violates the principle of *audi alteram partem.*

3. The impugned assessment order dated 30.07.2019 is accordingly set aside on this short ground and the matter is remitted to the file of the Joint Commissioner (ST), Hyderabad (Rural) Division, Hyderabad, for consideration afresh. In consequence, the effectual order dated 03.08.2019 issued by the Assessment Commissioner (ST), Madhapur-III Circle, Hyderabad, which was issued pursuant to the Joint Commissioner's order dated 30.07.2019 is also set aside. The petitioner is given time up to 15.10.2019 to submit his further objections in relation to the pre-revision show cause notice dated 18.06.2019. The Joint Commissioner (ST), Hyderabad (Rural) Division, Hyderabad, shall then take up the matter, afford an opportunity of personal hearing to the petitioner and complete the assessment expeditiously. The Writ Petition is accordingly allowed to the extent indicated above.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

SANJAY KUMAR, J

K. LAKSHMAN, J

September 24, 2019.
PV