HONOURABLE SRI JUSTICE M. S. RAMACHANDRA RAO

AND

HONOURABLE SRI JUSTICE K. LAKSHMAN

WRIT PETITION No.23607 OF 2019

ORDER: ***(Per Hon'ble Sri Justice M.S. Ramachandra Rao)***

Heard learned counsel for the petitioner and Sri J. Anil Kumar, learned special counsel for Commercial Taxes for respondents.

2. The petitioner is a Company running a Printing Press and is an assessee of the rolls of the 1st respondent under the Telangana Value Added Tax Act, 2005 (for short 'the Act'). For the tax period April, 2008 to March, 2013, an assessment order was passed against the petitioner resulting in a tax liability of Rs.65,299/- which was paid by the petitioner.

3. The 3rd respondent in exercise of powers vested in her under Section 32(2) of the Act issued a revised show cause notice dated 16.09.2019 in reference No.D4/70/2019-20 proposing to revise the assessment and also to disallow the input tax credit to the extent of Rs.5,57,546/-.

4. The said show cause notice was served on the petitioner on 18.09.2019. The petitioner was given only seven (7) days time to file objections and it was communicated that in default of the petitioner in

filing such objections, the 3rd respondent would pass revised orders of assessment.

5. The petitioner contends that the time granted to the petitioner to draft a reply to the revised show cause notice is very short, the petitioner has to take legal advise to prepare it and the action of the 3rd respondent in fixing such a short time for the petitioner to file a reply to the show cause notice and then passing the impugned revision order dated 26.09.2019 is arbitrary, illegal and is in violation of principles of natural justice. It is contended that the limitation period in passing the revision order expired on 26.09.2019 and in great haste, the impugned revisional order was passed on 26.09.2019 causing prejudice to the petitioner. On merits also several contentions are raised disputing the contents of the revised show cause notice dated 26.09.2019.

6. The Special Government Pleader for Commercial Taxes Sri J. Anil Kumar states that reasonable time was afforded to the petitioner to submit reply to the revisional show cause notice dated 16.09.2019 and because the petitioner did not file reply within the said time, the 3rd respondent was right in passing the impugned revisional order on 26.09.2019.

7. In our considered opinion grant of mere seven days time to an assessee to submit reply to a revised show cause notice issued six years after the assessment was made originally on 27.09.2013, is too

short and it would amount to depriving the petitioner to make an effective reply/objections to the show cause notice which was dated 16.09.2019, but which was served on the petitioner admittedly on 18.09.2019. Therefore, on this ground, we set aside the impugned order passed by the 3rd respondent on 26.09.2019; and permit the petitioner to file reply to the revised show cause notice dated 16.09.2019 within three (3) weeks from the date of receipt of a copy of this order, and on receipt of the petitioner's objections/reply to the show cause notice dated 16.09.2019, the 3rd respondent shall pass a fresh order in accordance with law and communicate it to the petitioner.

9. Accordingly, the Writ Petition is allowed. No order as to costs. The miscellaneous petitions, if any pending, shall stand closed.

M.S. RAMACHANDRA RAO, J

K. LAKSHMAN, J

November 14, 2019

<u>Note</u>:

Furnish CC in one week.

B/O.KTL