HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE P.KESHAVA RAO

WRIT PETITION No. 20928 of 2018

ORDER: *(per V. Ramasubramanian, J)*

Challenging a revisional order of assessment passed under the Telangana Value Added Tax Act, 2005, under Section 32(2) of the Act, the dealer has come up with the above Writ Petition.

2. Heard Mr.S.R.R.Viswanath, learned Counsel for the petitioner and Mr.J.Anil Kumar, learned Standing Counsel for the respondents.

3. At the outset, the impugned revisional order of assessment is dated 22.12.2017 and the petitioner has had an alternative remedy of appeal available to them under the statute. Without availing the same, the petitioner has come up with the above Writ Petition after six months.

4. But it is stated in the affidavit in support of the Writ Petition that the petitioner had his son's betrothal ceremony fixed on 09.12.2017 and hence he could not respond to the said show cause notice. After the impugned Order was passed, he had his son's wedding on 21.12.2018. The Wedding invitation card is enclosed. The petitioner has further claimed that he suffered a back injury in an accident which made him to take bed rest for three months. Therefore, delay and latches, in this case cannot be put against the petitioner.

5. Coming to the availability of alternative remedy, it is to be pointed out that the availability of alternative remedy is not a bar at all times. But in such cases, the scope of judicial review under Article 226 of the Constitution of India is extremely circumscribed. Hence, let us find out whether the petitioner's case comes within the parameters.

6. The main grievance of the petitioner is that even as per the ledger statements enclosed to the counter affidavit filed by the respondent, the *return* filed by the petitioner relating to the month of July, 2010 does not even find a place and that though the petitioner filed a revised *return* for June, 2010, the same was also not reflected. According to the petitioner, if the revised *return* for June, 2010 and the return filed for July, 2010 are taken in to account, the necessity for revising the original assessment would not have arisen at all.

7. It is seen from the ledger account filed along with the counter affidavit that there is no entry relating to July, 2010. According to the petitioner, they filed a revised return for June 2010 on 19.08.2010. Probably if the petitioner had participated in the enquiry, they could have pointed out both. The fact remains that if both these aspects had been pointed out, the revisional authority would have been in a better position to take a holistic view. Therefore, we are of the considered view that the petitioner deserves one opportunity

8. Therefore, the Writ Petition is allowed, the impugned Order is set aside and the matter is remanded back to the revisional authority. The petitioners shall file their statement of objections to

the show cause notice and also treating the impugned Order as an additional show cause notice. The objections shall be filed on or before 15.02.2019. Thereafter, the revisional authority shall fix a date of personal hearing on or before 28.02.2019 and the petitioner shall positively participate in the enquiry. Thereafter, the 1st respondent shall pass Orders afresh.

Consequently, Miscellaneous Petitions, if any, pending in the Writ Petition shall stand dismissed. No Order as to costs.

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

January 30, 2019
smr