THE HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE P. KESHAVA RAO

<u>WRIT PETITION No.21300 OF 2018</u>

Date: 22.04.2019

Between:

M/s. Om Sai Multi Core Services, Plot No.59,
East Marredpally, Secunderabad, represented
By its Managing Partner.

… Petitioner

v.

The Assistant Commissioner (ST), Malkajgiri Circle,
Saroornagar Division, Manoranjan Complex, Nampally,
Hyderabad and another.

... Respondents

For Petitioner	:	Mr. G. Narendra Chetty
For Respondents	:	Mr. T. Vinod Kumar, Special Standing Counsel.
Gist	:	
Head Note	:	
Cases Referred	:	Nil

C/15

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE P. KESHAVA RAO

<u>WRIT PETITION No.21300 OF 2018</u>

<u>ORDER</u>: ***(Per Hon'ble Sri Justice V. Ramasubramanian)***

Aggrieved by an order of assessment passed under the Central Sales Tax Act, 1956, the Dealer has come up with the above writ petition.

2. Heard Mr. G. Narendra Chetty, learned counsel for the petitioner and Mr. T. Vinod Kumar, learned Special Standing Counsel for the respondents.

3. The grievance with which the petitioner came up was that the show cause notice was sent to the previous address and that therefore, they were unable to file a reply. But, it was found that Form VAT 112 was not filed by the petitioner. Therefore, the Assessing Officer did not commit a mistake in sending the show cause notice to the address as reflected in their records.

4. But, at the same time, the turnover which the petitioner claimed to be exempted under the Telangana Value Added Tax Act, 2005, has been treated as stock transfer and a levy made under the CST Act, 1956. If the petitioner had promptly informed the change of address and participated in the proceedings, this could not have been happened. Therefore, we are of the view that one opportunity should be given to the petitioner. But, since the respondents were not at fault,

we directed the petitioner to make payment of a sum of Rs.3,00,000/-. The said order has been complied with by the petitioner.

5. In view of the above, the writ petition is allowed, the impugned order is set aside and the petitioner is directed to file their reply to the show cause notice and also to the points contained in the impugned order. The reply shall be filed by the petitioner on or before 13.05.2019. The Assessing Officer shall then fix a date for personal hearing before 31.05.2019 and after hearing the petitioner, pass orders afresh. The amount of Rs.3,00,000/- deposited pursuant to the order passed by this Court, will be dealt with depending upon the out come of the assessment. If no tax liability is fastened ultimately, by any order passed by the Assessing Officer, the amount deposited shall be refunded.

6. The miscellaneous petitions, if any pending, shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

April 22, 2019

<u>Note</u>:
Furnish CC tomorrow.
B/O.
KTL