HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO
AND
HONOURABLE SRI JUSTICE K.LAKSHMAN

WRIT PETITION NO.27023 OF 2019

O R D E R
(*Per Honourable Sri Justice M.S.Ramachandra Rao*)

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

2. The petitioner in this Writ Petition has assailed Assessment Order No.43674 dt.05.09.2018 for the tax period April, 2017 to June, 2017 under the Telangana VAT Act, 2005.

3. A show-cause notice had been issued to the petitioner on 21.08.2018 alleging that the petitioner is due Rs.4,53,618/- towards arrears of VAT. A detailed explanation was offered by the petitioner on 04.09.2018 raising several contentions. However, a cryptic order is passed by the 1st respondent without dealing specifically with any of the contentions of the petitioner, stating:

> *"A. Registration Certification of the Selling Dealer is cancelled.*
> *B. Selling Dealer has not filed its Returns under the provisions of the VAT Act.*
> *C. Selling Dealer has reported less Output Tax.*
> *D. Selling Dealer has not paid the Output Tax.*
> *Issued ITC credit to buying dealer (assesses) not credited by the way of tax to commercial tax department in any way. Further the dealer failed to prove the substantiate his claim of ITC in any manner. Hence the objection of the dealer denied and final orders passed confirming the demand."*

4. It is shocking that a Quasi Judicial order holding the petitioner liable to pay the amount of Rs.4,53,618/- does not contain any reasons which have to be mandatorily incorporated in it in order to satisfy this

Court that there was application of mind by the Assessment Officer who passed the order. It is brought to the notice to this Court that the petitioner's appeal to the Appellate Joint Commissioner (2nd respondent) was also rejected on 19.09.2019 on the ground that it is barred by limitation.

5. However, since the primary order passed by the 1st respondent itself is not sustainable in view of the absence of reasons in the said order, its confirmation by the 2nd respondent on 19.09.2019 cannot come in the way of this Court entertaining the Writ Petition.

6. The learned Government Pleader for Commercial Taxes, on instructions, also states that the Assessment Order be set aside and the matter be remanded to the 1st respondent for fresh consideration.

7. Accordingly, the Writ Petition is allowed; Assessment Order No.43674 dt.05.09.2018 passed by the 1st respondent and the Appellate Order dt.19.09.2019 passed by the 2nd respondent are both set aside; the matter is remitted to the 1st respondent to pass fresh reasoned order in accordance with law and communicate the same to the petitioner. No costs. The applicability of Amendment Act 4 of 2015 is left open and is not decided in this Writ Petition.

8. Pending miscellaneous petitions, if any, shall stand closed.

M.S.RAMACHANDRA RAO, J

K. LAKSHMAN, J

6th DECEMBER, 2019

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