HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE P. KESHAVA RAO

WRIT PETITION No.26163 OF 2018

ORDER: *(Per Hon'ble Sri Justice V. Ramasubramanian)*

Aggrieved by an order of assessment passed for the period 2013-14 under the Central Sales Tax (CST) Act, 1956, the dealer has come up with the above Writ Petition.

2. Heard Mr. M.V.J.K. Kumar, learned counsel for the petitioner and Mr. J. Anil Kumar, learned Special Standing Counsel for the Department.

3. The short ground on which the impugned order of assessment is assailed is that neither the show-cause notice nor the notices subsequently issued were ever served on the petitioner and that the show-cause notices and other notices were issued to the old address of the petitioner despite the petitioner having filed Form - 112 about change of address. The contention is that the order of assessment was served at the new address and that this clearly demonstrates denial of fair opportunity of hearing.

4. Serious contentions are raised by the learned Special Standing Counsel for the Department; (i) that Form - 112 is not available in the files; and (ii) that all the returns filed by the petitioner both before this Department and the Service Tax Department reflected the old address and that therefore there was no mistake on the part of the Department in sending the notices to the old address.

5. It appears that the change of the office premises of the petitioner allegedly happened in the year 2009, but the '*e-filing'* was introduced in 2011. Though the petitioner has produced a copy of Form - 112 allegedly filed by them and the same also carries the rubber stamp of the Department, the learned Special Standing Counsel for the Department states that the same is not available in the files.

6. Today, there is no point in trying to find out who was at fault. The same would require a litter more effort on our part, in summoning all the documents and scrutinizing the files.

7. All that the petitioner wants is one more opportunity. Therefore, even if we do not find the respondents at fault, we can always give one opportunity of hearing to the petitioner, since they obviously did not have the opportunity of objecting to the show-cause notice.

8. In view of the above, the Writ Petition is allowed, the impugned order is set aside and the matter is remanded back to the Assessing Authority. The petitioner shall file their objections, treating the impugned order itself as a show-cause notice. The objections shall be filed on or before 15.04.2019. Thereafter the Assessing Officer shall fix a date for personal hearing and pass appropriate orders in accordance with law afresh. The Department shall also ensure that the address of the petitioner is changed in their records as per Form VAT - 112 filed along with the writ petition. However, in the circumstances of the case, there shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the writ petition shall stand closed.

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

March 26, 2019

Note:
Furnish C.C. of order by 27.03.2019
(B/O.)Mgr