HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE P.KESHAVA RAO

WRIT PETITION No. 44192 of 2018

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

1) The dealer under the Telangana Value Added Tax Act, 2005 has come up with the above writ petition challenging an order of assessment passed in relation to the assessment period 2009-2010.

2) Heard Mr.Naga Deepak, learned counsel for the petitioner and Mr.M.Govinda Reddy, learned Special Standing Counsel for the respondents.

3) The impugned order of assessment is dated 30.03.2013. Apart from the fact that the petitioner had an effective alternative remedy of appeal to the Appellate Deputy Commissioner as against the impugned order, the petitioner is also guilty of delay and latches in approaching the Court after five years of the impugned order.

4) But the contention of the learned counsel for the petitioner is that the impugned order was never served on the petitioner and that therefore the question of delay and latches would not arise.

5) On the issue as to whether the impugned order was served on him or not, we directed the learned Special Standing Counsel to get instructions.

6) Mr.M.Govinda Reddy, learned Special Standing Counsel, produced a coy of the order of assessment containing an acknowledgment from the authorized signatory of the petitioner company with the rubber stamp of the company. The authorized representative was so truthful to the department that he has also recorded even date of receipt of the impugned order. The file produced by the learned Special Standing Counsel shows that Mr.S.S.Sastry also had authorization of the petitioner company.

7) However, Mr.Naga Deepak, learned counsel for the petitioner submitted that the authorized representative was sent out of service of the petitioner company and that therefore the service of the impugned order on him is not a valid service. But the said contention cannot be accepted. Unless the petitioner has informed the assessing officer about the revocation of the authorization or the fact that the authorized person had left the services of the petitioner company, the petitioner cannot take such a stand.

8) The learned counsel for the petitioner contended that a good case on merits cannot suffer on account of technicalities. According to the learned counsel, a benefit that was granted to the very same petitioner in respect of the very same product, for the previous assessment years as well as the subsequent assessment year has been denied only in respect of this particular period.

9) It may be true that the petitioner has an excellent case on merits. For such persons to succeed before a Court of law, they should also be diligent.

10) Therefore, on the ground of delay and latches the Writ Petition is dismissed. As a sequel, miscellaneous petitions, if any, pending in the Writ Petition stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

February 7, 2019
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