HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE P. KESHAVA RAO

WRIT PETITION No.44984 OF 2018

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

Aggrieved by an order of assessment passed under the Central Sales Tax Act, 1956 (for short 'Act, 1956'), the Dealer has come up with the above Writ Petition.

Heard Sri M.V.J.K. Kumar, learned counsel for the petitioner and Sri T. Vinod Kumar, learned Special Standing Counsel for the Department.

The impugned order is challenged primarily on the ground of lack of opportunity.

It appears from the impugned order that a show-cause notice dated 09.10.2014 was sent by registered post. But, the petitioner failed to respond.

Thereafter, the impugned order was passed in the year 2017 and it was sent by registered post.

It appears that the petitioner started making representations to the very same Assessing Officer on the ground lack of opportunity. But since there was no response they have come up with the above writ petition.

It is clear from the records that the petitioner was served with the show-cause notice and they failed to response to the same. Therefore, this is not a case of violation of natural justice.

But the fact remains that the show-cause notice was dated 09.10.2014 and the order of assessment is dated 13.06.2017. During this period of three years, the petitioner admittedly shifted their place of business and the same was intimated in the form of VAT 112, on 20.06.2016. This is why the impugned order was sent to the new address.

When an order of assessment is passed after three years of the issue of show-cause notice, it would be better, though not mandated by the Rules, to put the dealer once again on notice, since a dealer would have been lulled into a sense of false security with a lapse of time.

Therefore, on this short ground, the Writ Petition is allowed, the impugned order is set aside and the matter is remanded back to the Assessing Officer.

The petitioner shall file their response treating the impugned order itself as a show-cause notice. The response shall be filed by the petitioner, on or before 18.01.2019. The Assessing Officer shall fix a date for personal hearing on any date before 31.01.2019 and thereafter pass appropriate orders on merits in accordance with law.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the writ petition shall stand closed. No costs.

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

JANUARY 03, 2019

<u>Note</u>:
Furnish C.C. of order by 04.01.2019.
(B/O)vhb/Mgr