THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

W.P.No.2312 of 2020

O R D E R :

1. This Writ Petition is filed assailing the JC Order No.478 dt.16.12.2019 passed by the 1st respondent against the petitioner.

2. Petitioner is a registered dealer under the rolls of the 2nd respondent both under the provisions of Telangana VAT Act, 2005 (for short 'TVAT Act') and Central Sales Tax Act, 1956 (for short 'the CST Act'). It does business in trading of FMCG products.

3. For the assessment period February, 2013 to March, 2015, VAT audit was conducted under the TVAT Act by the 3rd respondent in relation to an alleged under-declaration of tax of Rs.1,76,845/- and an assessment order was passed on 18.12.2015.

4. A pre-revision show cause notice was issued by the 1st respondent on 05.10.2019, more than 3½ years later, proposing to revise the said assessment under Section 32(2) of the TVAT Act, but only one week time was granted to respond to the said notice.

5. The petitioner approached the 1st respondent and sought more time and even gave a letter on 04.10.2019 requesting 10 days time for filing objections.

6. But in view of the fact that the assessment order is sought to be revised 3½ years after the initial assessment, the time was not adequate for the petitioner to file any submissions before the 1st respondent and so the 1st respondent went ahead and confirmed levy of tax of Rs.2,93,06,270/-, which was indicated in the pre-revision show-cause notice.

7. Assailing the same, this Writ Petition is filed.

8. Counsel for the petitioner contends that the time granted to file objections to the pre-revision show-cause notice was not adequate for the petitioner to collect the material and respond to it, and it was not fair on the part of the 1st respondent to propose the revision at the very fag-end of the four year period of limitation and hurriedly pass the impugned order.

9. The Government Pleader for Commercial Taxes however supported the order passed by the 1st respondent and stated that adequate time was granted to the petitioner to file objections.

10. Having regard to the fact that the assessment order made on 18.12.2015 by the 3rd respondent is sought to be revised by the 1st respondent, 3½ years later, that too at the fag-end of the period of four year limitation, we are of the opinion that interests of justice would warrant grant of more time to the petitioner to file objections, since he would have to dig out the material to contest the averments made in the pre-revision show-cause notice dt.05.10.2019.

11. Accordingly, this Writ Petition is allowed; JC Order No.478 dt.16.12.2019 passed by the 1st respondent is set aside and the matter is remitted back to the 1st respondent for fresh consideration in accordance with law; and the petitioner is granted three weeks time from today to file objections to the pre-revision show-cause notice dt.05.10.2019, which shall be considered by the 1st respondent before passing any orders under Section 32(2) of the Telangana VAT Act, 2005. No order as to costs.

12. Consequently, Miscellaneous Petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

T.AMARNATH GOUD, J

05th February, 2020.

Note: Issue CC in three days.
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