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

W.P.No.24646 of 2019

O R D E R :

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

2. This Writ Petition has been filed challenging the order dt.31.05.2018 in ADC Order No.509 of the 3rd respondent dismissing the petitioner's appeal filed against the Assessment Order dt.31.03.2016 passed by the 1st respondent under the provisions of the Telangana State VAT Act.

3. It is the contention of the counsel for petitioner that though the petitioner had engaged an authorized representative to appear before the Appellate Authority, the said representative never appeared before the Appellate Authority resulting the Appellate Authority passing an order on 31.05.2018, and though the authorized representative was communicated with the said order on 07.06.2018, he did not even bother to inform the petitioner about it.

4. According to the petitioner, he came to know about the order passed by the Appellate Authority long after the time for preferring an appeal to the Telangana VAT Appellate Tribunal had lapsed.

5. Counsel for the petitioner contends that if one opportunity is given to the petitioner to contest the matter before the 3rd respondent, the petitioner would place his contentions before the said authority and seek to have the order passed by the Assessing Authority reversed.

6. The Special Government Pleader appearing for respondents contended that the petitioner's authorized representative was given several notices by the Appellate Authority, but he did not appear and address arguments, forcing the Appellate Authority to pass the impugned order. He also contended that even the time for filing appeal before the Telangana VAT Appellate Tribunal has lapsed and at this distance of time no indulgence can be shown to the petitioner.

7. It is not in dispute that the issue relates to liability for sales tax/VAT. Since the petitioner is placed in Gurgaon in Haryana, petitioner would only have to hire somebody to represent it in the proceedings before the 1st respondent-Assessing Officer as well as the 3rd respondent-Appellate Authority located in Telangana State

8. If the authorized representative appointed by the petitioner did not participate in the proceedings before the 3rd respondent resulting in the dismissal of the appeal, and the said authorized representative also did not inform the petitioner about the passing of the said order until the time limit for filing an appeal before the

Telangana VAT Appellate Tribunal has lapsed, petitioner cannot be made to suffer.

9. The petitioner in our considered opinion is entitled to one opportunity of hearing by the 3rd respondent to canvas the contentions raised by it against the assessment order passed by the 1st respondent. Therefore, we are inclined to allow this Writ Petition.

10. Accordingly, this Writ Petition is allowed; the order dt.31.05.2018 in ADC Order No.509 of the 3rd respondent is set aside; the matter is remitted back to the 3rd respondent, who shall fix a date and serve notice of hearing on the counsel for the petitioner before this Court at his address i.e., Sri S.Krishna Murthy, Plot No.37(8-3-1098), Bharadwaj, Srinagar Colony, Hyderabad-500073; the petitioner's authorized representative shall appear before the 3rd respondent on the day fixed by the 3rd respondent and address his submissions against the assessment order passed by the 1st respondent; and then the 3rd respondent shall pass a reasoned order in accordance with law and communicate it to the petitioner. If the petitioner does not avail the opportunity given to it in this order, this Writ Petition shall stand dismissed. No order as to costs.

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

M.S. RAMACHANDRA RAO, J

T.AMARNATH GOUD, J

26th February, 2020.

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