THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO
AND
THE HON'BLE SRI JUSTICE K.LAKSHMAN

WP.No.29203 of 2019

O R D E R: *(Per the Hon'ble Sri Justice M.S.Ramachandra Rao)*

Heard counsel for the petitioner and Sri J.Anil Kumar, Special Counsel for Commercial Taxes appearing for respondents.

2. Petitioner is a registered dealer under the provisions of Telangana VAT Act, 2005 on the rolls of 3rd respondent. It carries on business in manufacturing of turbine and aero-space parts, fasteners and precision engineering works. The assessment under the said Act for the years 2011-12 to 2014-15 was completed by the 2nd respondent on 19.10.2015.

3. Petitioner claims to have submitted documentary evidence to the 2nd respondent during the course of the enquiry by the 2nd respondent, that the turn over of Rs.1,07,36,243/- for 2012-13 and Rs.1,39,34,068/- for 2013-14 pertain to job works involving industrial labour activity, that there is no transaction which would attract levy of VAT, and the 2nd respondent, according to the petitioner, accepted the same and refrained from levying VAT on the said turnovers.

4. A revision show cause notice dt.26.08.2017 was issued by the 1st respondent on the ground that the 2nd respondent had granted exemption on the turn over shown as "exempt sales" as

relating to job-works and is proposing to levy VAT of Rs.14,24,163/- for 2012-13 and Rs.18,48,354/- for 2013-14.

5. Petitioner submitted a reply thereto on 23.01.2018 with all supporting documents contending that the disputed turnovers related to job works and they were also export related, and were not subject to VAT. Invoices raised on the foreign principal and purchase orders were also filed along with the reply for the entire disputed turnover.

6. Though reply affidavit was filed on 23.01.2018, no personal hearing was granted to the petitioner by the 1st respondent and the impugned order was passed on 18.10.2019 confirming the proposals in the show cause notice.

7. In the impugned order, the following paragraph is the only paragraph containing the reasons:

> "The dealer contention is verified in accordance with the documentary evidence furnished by them. The dealer simply reiterated that it is just a clerical error which is not committed intentionally on their part. In support of their statement, they have not furnished any attested documents such as bill of lading, foreign inward remittances in order to substantiate their claim of exemption being job work."

8. A reading of the above paragraph shows that there is no application of mind by the 1st respondent to the documentary evidence produced by the petitioner, not only before him but also before the 2nd respondent. Though reference is made to the

petitioner not furnishing bill of lading, foreign inward remittances, etc., at no point of time had the 1st respondent asked the petitioner to produce the same. Had a personal hearing been accorded to the petitioner, petitioner could have been informed of the need to produce these documents.

9. We are therefore of the opinion that the impugned order cannot be sustained.

10. Accordingly, this Writ Petition is allowed; the impugned order dt.18.10.2019 of the 1st respondent and the consequential order dt.25.10.2019 of the 3rd respondent are both set aside; the matter is remitted back to the 1st respondent to provide a personal hearing to the petitioner; petitioner is also permitted to file any additional material in support of petitioner's claim that the turn over in question relates to job work, that too export related; and thereafter, a reasoned order shall be passed by the 1st respondent within a period of six (06) weeks in accordance with law, and the same shall be communicated to the petitioner. No order as to costs.

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

M.S. RAMACHANDRA RAO, J

K.LAKSHMAN, J

02nd January, 2020.
gra