HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO
AND
HONOURABLE SRI JUSTICE T.AMARNATH GOUD

<u>WRIT PETITION No.23887 of 2020</u>

<u>ORDER:</u> (Per Hon'ble Sri Justice M.S. Ramachandra Rao)

In this Writ Petition, the petitioner challenges the assessment order AO No.39084/2020 dt.27-03-2020 passed by the 1st respondent under Central Sales Tax Act, 1956 (for short 'the Act') for the period April, 2015 to March, 2016.

2. Petitioner contends that a show cause notice dt.10-06-2019 had been issued to the petitioner under the Act, to which the petitioner submitted a reply on 01-07-2019 stating that it did not agree with the turnover mentioned in the show cause notice and also seeking a personal hearing; that subsequently, on 01-07-2019, a written reply was also submitted by petitioner to the 1st respondent giving details of sales effected by petitioner against 'C' forms, which had already been submitted to the 1st respondent; and that the impugned order was passed by 1st respondent without referring to the replies issued by petitioner and without considering 'C' forms submitted by petitioner already. It is contended that no personal hearing was afforded to the petitioner though the impugned order mentions about such personal hearing. Other contentions on merits are also raised.

3. Learned counsel for petitioner also points out that there was nationwide lockdown imposed on account of Covid-19 pandemic by

the Union and State Governments restricting the movement of people after 22-03-2020 and so it was not possible for petitioner to appear before the 1st respondent on 27-03-2020.

4. Sri M.Govind Reddy, learned Special Counsel for Commercial Taxes appearing for respondents is unable to explain why the 1st respondent has not taken into account the reply dt.01-07-2019 submitted by petitioner to the show cause notice dt.10-06-2019 issued by 1st respondent and also the electronic response requesting personal hearing made by petitioner. He does not dispute that personal hearing was not afforded to the petitioner.

5. In our opinion, it is the duty of the 1st respondent to consider the reply dt.01-07-2019 submitted by petitioner along with 'C' forms before passing the impugned assessment order and 1st respondent ought to have provided a personal hearing to the petitioner as well, as was sought by petitioner

6. In these facts and circumstances, we are satisfied that there has been violation of principles of natural justice causing grave prejudice to the petitioner and the impugned order therefore deserves to be set aside.

7. Accordingly, the Writ Petition is allowed; the impugned Assessment Order AO No.39084/2020 dt.27-03-2020 and demand notice dt.25-11-2020 are both set aside; the matter is remitted back to the 1st respondent for fresh consideration; the 1st respondent is

directed to provide a personal hearing to the petitioner; and then a reasoned order shall be passed by 1st respondent in accordance with law and be communicated to the petitioner. No costs.

8. Consequently, miscellaneous petitions, pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

T.AMARNATH GOUD, J

Date: 22-01-2021
Vsv