

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

AND

THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION No.5983 OF 2021

ORDER: (per Hon'ble Sri Justice A.V. Sessa Sai)

Heard Sri K.V.J.L.N. Sastry, learned counsel for the petitioner and the learned Government Pleader for the Commercial Tax and perused the material available on record.

In the present writ petition, challenge is to the order of assessment passed by the 1st respondent-Assistant Commissioner vide reference No.32/SA6 dated 30.11.2020.

It is submitted by the learned counsel for the petitioner that initially the 1st respondent herein issued a show cause notice dated 22.06.2020 to the petitioner, proposing to levy tax of Rs.22,74,39,677/-. Thereafter, the petitioner submitted a reply dated 07.08.2020 to the show cause notice dated 22.06.2020. Subsequently, a revised show cause notice came to be issued on 01.10.2020. In response to the said revised show cause notice, petitioner herein by way of a representation dated 30.10.2020 requested to give some time on the ground that he was suffering from fever, cold and cough. The 1st respondent, thereafter passed the impugned order of assessment dated 30.11.2020, observing that the tax period is between 01.07.2019 to 13.03.2020 and the petitioner is trying to delay the process of filing the objections quoting some trivial grounds. According to the learned counsel for the petitioner, the impugned order of assessment passed by the 1st respondent is highly illegal, arbitrary and in violation of the principles of natural justice. It

is further submitted by the learned counsel for the petitioner that the 1st respondent herein having regard to the situation of the petitioner as explained in the above referred representation dated 30.10.2020 ought to have granted time.

On the other hand, learned Government Pleader representing the respondents, while strenuously opposing the writ petition, contends that there is no illegality or infirmity in the impugned order of assessment and as such no interference of this Court is warranted under Article 226 of the Constitution of India.

It is absolutely not in controversy that the 1st respondent issued a show cause notice dated 22.06.2020 proposing to levy tax of Rs.22,74,39,677/- on the petitioner. Subsequently, the petitioner submitted a reply dated 07.08.2020 to the show cause notice dated 22.06.2020. Thereafter, in response to the revised show cause notice, by way of representation dated 30.10.2020, petitioner sought time on the ground of illness. While refusing to consider the said request made by the petitioner, the 1st respondent passed the impugned order of assessment. It is known reality that the period during which the petitioner herein sought time was undoubtedly a difficult period for the entire mankind which arose due to COVID-19 Pandemic. It is also required to be noted that in the petitioner's representation dated 30.10.2020 it was stated that he was suffering from fever, cold and cough. Therefore, having regard to the situation prevailing during that period, the assessing authority ought to have granted some time to the petitioner herein to file the objections/reply. In that view of the matter, we are of the considered opinion that the matter requires reconsideration by the 1st respondent after giving the opportunity to file objections to the show cause notice dated 01.10.2020. The

impugned action of the 1st respondent, in the considered opinion of this Court, is in total violation of principles of natural justice.

For the aforesaid reasons, the writ petition is allowed, setting aside the order of assessment dated 30.11.2020 and the petitioner herein shall file his objections within a period of two weeks from the date of receipt of copy of this order to the revised show cause notice dated 01.10.2020 thereafter it is open for the 1st respondent to pass appropriate orders after giving opportunity of hearing to the petitioner herein. If such objections are not filed within the time stipulated, the 1st respondent herein may take further action strictly, in accordance with law. No order as to costs.

Miscellaneous Petitions, if any pending, shall also stand closed in consequence.

A.V.SESHA SAI, J

J. UMA DEVI, J

Date:30.03.2021.

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