(2014) 07 KAR CK 0039

In the Karnataka High Court

Case No : Writ Petition Nos. 30737 to 30747 of 2014 (T-RES)

Larsen and Toubro Limited APPELLANT

Vs

State of Karnataka RESPONDENT

Date of Decision : 09-07-2014

Acts Referred:
Karnataka Value Added Tax Act, 2003 — Section 39

Citation : (2014) 79 KarLJ 575

Hon'ble Judges : B.V. Nagarathna, J

Bench : Single Bench

Advocate : N. Venkatraman, Senior Advocate for Thirumalesh M, Advocate for the Appellant; S.V. Girikumar, Additional Government Advocate, Advocate for the Respondent

Judgement

B.V. Nagarathna, J.—The reassessment order u/s 39 of the Karnataka Value Added Tax Act, 2003 (''the KVAT Act'' for short) passed by respondent 3-Deputy Commissioner of Commercial Taxes (Audit 1.4), dated 31-5-2014 is assailed in this writ petition. Briefly stated, the facts are that the petitioner had filed its returns for the assessment year 2007-2008. Thereafter, reassessment proceedings were initiated u/s 39 of the Act by issuance of notice dated 18-4-2011 (Annexure-A). Reply to that notice was given by the petitioner on 29-4-2011. During the pendency of the proceedings, there have been several requests made by respondent 3 seeking details of various transactions that have taken place for the period in question and it is stated that the petitioner filed all the requisite details before respondent 3-authority. When the matter stood thus, on 27-5-2014, the petitioner filed its reply a copy of which is produced at Annexure-J seeking personal hearing in the matter. The grievance of the petitioner is that no personal hearing was granted to the petitioner and instead, on 31-5-2014, the impugned order of reassessment was passed by respondent 3. That order is assailed by the petitioner in this writ petition.

2. I have heard the learned Senior Counsel for the petitioner and learned

Additional Government Advocate for the respondents and perused the material on record.

3. My attention was drawn to various documents, which have been annexed to the writ petition, specifically Annexure-J, which is dated 27-5-2014, in which the petitioner had sought for personal hearing in the matter, so as to demonstrate before respondent 3-authority its position in the case. More particularly, with regard to Annexure-H and several other documents. The grievance of the petitioner is that no personal hearing was granted on that day or on subsequent days. As a result, there has been violation of principles of natural justice. It was also contended that certain dates mentioned in the impugned order are incorrect and the impugned order is not in accordance with law.

4. Per contra, learned Additional Government Advocate supporting the impugned order contended that the petitioner had all the opportunity to appear before respondent 3 and state its case, but the petitioner at this stage cannot say that there was no opportunity granted to it to establish its case before respondent 3-authority.

5. In light of the aforesaid submission, I have perused the impugned order dated 31-5-2014, which is at Annexure-L. It is noted by respondent 3-authority that the petitioner had in fact sought personal hearing and in the matter, relevant extracts of the reply dated 31-5-2014 are made in the impugned order. However, from the impugned order, it is not forthcoming as to on which date the petitioner appeared through its authorised representative before respondent 3. No doubt, it is recorded in the last few paragraphs of the impugned order that the petitioner has reiterated its stand in the personal hearing granted to it. But in the absence of there being any personal hearing in the matter, the recording of the fact that there was in fact a personal hearing is incorrect and cannot be accepted.

6. All that the petitioner is seeking is an opportunity of being heard in person so that the case of the petitioner could be explained to respondent 3-authority and having regard to innumerable details which had to be explained by the petitioner, respondent 3 ought to have granted a personal hearing to the petitioner. In that view of the matter, the impugned order is set aside, the petitioner is directed to appear before respondent 3-authority on 4-8-2014 without insisting on any separate notice from that authority. On that date or on any other date ordered by respondent 3-authority, the petitioner to state its case through its authorised representative. On consideration of the case, respondent 3 to pass a fresh order in accordance with law.

7. All contentions on both sides are left open.

8. With the aforesaid observations and directions, Annexure-L is quashed and writ petition stands disposed. It is further observed that if the petitioner does not appear before respondent 3 on 4-8-2014, then the impugned order Annexure-L shall be given effect to.

