(2008) 02 KAR CK 0021

In the Karnataka High Court

Case No : Writ Petition No. 14630 of 2007 (T-RES)

Mahaveer Electro Mech Private Limited, Bangalore — APPELLANT

Vs

State of Karnataka and Another — RESPONDENT

Date of Decision : 18-02-2008

Acts Referred:

Karnataka Value Added Tax Act, 2003 — Section 79
Karnataka Value Added Tax Rules, 2005 — Rule 39

Citation : (2008) 64 KarLJ 209

Hon'ble Judges : N. K. Patil, J

Judgement

1. The petitioner, assailing the correctness of the impugned show-cause notice issued under Section 79 read with Section 82 of the Karnataka Value Added Tax Act, 2003 (KVAT Act, 2003) by the second respondent dated 22-8-2007 vide Annexure-A has presented this writ petition.

2. The only grievance of the petitioner as made out by learned Counsel appearing for petitioner in the instant case is that, officers of the second respondent has made spot inspection of the petitioner''s premises and pointed out some irregularities and therefore, petitioner has submitted his detailed statement by way of reply explaining as to how he has maintained the Book of Accounts and etc. Instead of considering his objections, 2nd respondent has straightaway issued the impugned show-cause notice-cum-order, that too, giving only three days time from the date of receipt of the said notice to give reply to the said notice in writing, failing which, the action will be initiated as provided under the relevant provisions of the KVAT Act. Further, learned Counsel appearing for petitioner has taken me through the show-cause notice and submitted that, the said notice issued by 2nd respondent is one without any authority or jurisdiction and without affording reasonable opportunity to the petitioner to have his say in the matter and nor he is the prescribed authority. Therefore, petitioner was constrained to approach this Court by presenting this writ petition seeking appropriate relief as stated supra.

3. I have heard learned Counsel appearing for petitioner and learned Additional Government Advocate for respondents.

4. Learned Additional Government Advocate for respondents has filed statement of objections stating that, second respondent is the Authorised Officer/authority to decide the matter and having the jurisdiction, he has issued the show-cause notice and therefore, no error or illegality as such was committed by 2nd respondent. However, she submitted that opportunity of three days afforded in the notice to the petitioner for filing reply is not in consonance with the relevant provisions of the statute and keeping in view this aspect of the matter, and to safeguard the interest of both the parties, appropriate directions may be issued to the authorities to reconsider the matter afresh and to take appropriate decision in accordance with law.

5. In the light of the facts and circumstances of the case as stated above, without expressing any opinion on merits of this case, it would suffice for this Court, to issue appropriate direction to the petitioner as well as to the respondents.

6. For the foregoing reasons, the instant writ petition filed by petitioner is dispose of, with the following directions.-

(i) The impugned show-cause notice dated 22-8-2007 issued by 2nd respondent vide Annexure-A is treated as notice calling upon the petitioner to give reply;

(ii) The petitioner herein is permitted to file detailed reply to the impugned notice vide Annexure-A, dated 22-8-2007 issued by 2nd respondent within two weeks from the date of receipt of the copy of this order;

(iii) The second respondent is hereby directed to receive the same and pass appropriate orders, in strict compliance of the relevant provisions of the Karnataka Value Added Tax Act, 2003 and dispose of the same, after affording reasonable opportunity to the petitioner and after considering his reply, as expeditiously as possible, within a period of eight weeks from the date of receipt of the reply from petitioners.

With these observations, the writ petition filed by petitioner stands disposed of.