

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

And

THE HON'BLE SRI JUSTICE S.RAVI KUMAR

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WRIT PETITION No.15380 of 2015

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

The assessment order dated 31.03.2015 is questioned in this Writ Petition on the ground that it was not preceded by a show cause notice. Sri S.Dwarakanath, learned counsel for the petitioner, would draw the attention of this Court to the assessment order wherein it is stated that a show cause notice dated 05.12.2014 and another show cause notice dated 19.03.2015 were sent by post. Learned counsel would submit that the petitioner has not received copies of the said show cause notices; and they have, thereby, been denied a reasonable opportunity of putting forth their objections to the proposed action of the respondents to subject them to tax under the Act.

Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, on instructions, would submit that, as the show cause notices were sent by ordinary post, the petitioner must be presumed to have received copies thereof. The impugned assessment order has been sent to the petitioner by registered post. In the light of the petitioner's denial of having received the show cause notices, mere assertion that it was sent by ordinary post to the petitioner would not suffice. It is only on the show cause notices being served on the petitioner, would they have an opportunity of putting forth their objections thereto.

While we were initially inclined to admit the Writ Petition and grant stay, Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, would submit that, instead of doing so, this Court may set aside the assessment order, direct that it be treated as a show cause notice, and stipulate a time frame within which the petitioner should submit their reply. Sri S.Dwarakanath, learned counsel for the petitioner, readily accepts to such an order being passed.

We consider it appropriate, therefore, to set aside the impugned assessment order as it was passed in violation of principles of natural justice. The said order shall be treated as a show cause notice and, if the petitioner submit their objections thereto within two weeks from today, the respondents shall consider the same and take action thereafter in accordance with law. It is made clear that, in case the petitioner fails to avail the opportunity to submit their objections within two weeks from today, it is open to the first respondent to proceed, and pass an order afresh in accordance with law.

The Writ Petition stands disposed of accordingly. The miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

S.RAVI KUMAR, J

03rd June, 2015.

Note:

Furnish C.C. of the order

by 05.06.2015.

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