THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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CONTEMPT CASE No.236 of 2015

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

The order of this Court in W.P.No.33259 of 2013 dated 12.02.2014 required the respondents to refund Rs.4,73,385/- to the petitioner within a period of three months from the date of the order along with interest, if any, in accordance with law. On the ground that the said sum of Rs.4,73,385/- was not refunded, the petitioner invoked the contempt jurisdiction of this Court. It is not in dispute that, after the Contempt Case was filed, Rs.4,73,385/- was refunded to the petitioner.

Sri G.Narendra Chetty, learned counsel for the petitioner, would however contend, placing reliance on fourth proviso to Section 33 of the Andhra Pradesh Value Added Tax Act, 2005 (for brevity, 'the Act') that, since the respondents have not paid the petitioner interest, which they are entitled in law, they must be held to have wilfully and deliberately violated the order of this Court.

The fourth proviso to Section 33 of the Act requires interest to be paid for belated refund of the amount deposited for admission of an appeal. In the present case, 12½ % of the disputed tax deposited by the petitioner was not for admission of an appeal to the appellate authority or the Tribunal, but pursuant to the order of the Division Bench in W.P.No.16557 of 2008 dated 06.08.2008. Any amount deposited, pursuant to the order of the High Court, would not fall within the ambit of the fourth proviso to Section 33 of the Act.

Sri G.Narendra Chetty, learned counsel for the petitioner, would submit that, even in the absence of the specific provision in this regard, the petitioner is entitled to claim interest under the provisions of the Interest Act, 2002. Whether the petitioner is entitled to claim interest under the Interest Act or not are matters to be examined in appropriate legal proceedings, and not under the Contempt of Courts Act. It is only if the order of this Court has been violated, and the violation is wilful and deliberate, would action be required to be taken, against the respondents, under the Contempt of Courts Act.

The order of this Court, in W.P.No.33259 of 2013 dated 12.02.2014, required the respondents to refund Rs.4,73,385/- with interest, if any, in accordance with law. In the absence of any specific provision for payment of interest under the Andhra Pradesh Value Added Tax Act, the respondents cannot be held to have violated the order of this Court, much less wilfully and deliberately. We see no reason, therefore, to proceed against the respondents under the Contempt of Courts Act. We make it clear that we have not expressed any opinion on the petitioner's claim to be paid interest under the Interest Act, as these are matters to be examined in independent legal proceedings.

There is a delay in refunding Rs.4,73,385/- to the petitioner. While failure to refund the amount within time is undoubtedly a violation of the order of this Court, we see no reason to punish the respondents in this regard as the delay in compliance with the directions of this Court does not appear to be either wilful or deliberate.

The Contempt Case fails and is, accordingly, dismissed. Miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

13th November, 2015.

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