THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTI

Contempt Case No.1654 of 2014

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

This contempt case is filed alleging interpolation of the order of this Court in W.P.No.15896 of 2014 dated 11.08.2014.

This Court, by its order in W.P.No.15896 of 2014 dated 11.08.2014, faulted the respondents for levying penalty under Section 53(3) of the Andhra Pradesh Value Added Tax Act, 2005 (for short "the VAT Act"), as Section 10(a) of the Central Sales Tax Act, 1956 (for short "the CST Act") specifically provided for imposition of penalty. While setting aside the impugned order as without jurisdiction, this Court made it clear that the said order would not preclude the respondents therein from taking action against the petitioner under Section 10(a) of the CST Act.

Pursuant thereto, the respondent-contemnor issued a notice dated 09.09.2014 asking the petitioner to show cause why penalty should not be levied under Section 10(a) read with Section 8(2) and Section 8(4) of the CST Act. Curiously, while extracting the order of this Court, the respondent-contemnor recorded this Court as having held that the assessing authority could invoke the penal provision under Section 10A of the CST Act, when, in fact, this Court had permitted him to take action against the petitioner under Section 10(a) of the CST Act.

While a lenient view could have been taken, if it was merely a typographical error, the word "Section 10(A)" is found at three different places in the order extracted in the show cause notice dated 09.09.2014. Further, the respondent-contemnor has also extracted the provision of Section 10A of the CST Act in the said notice dated 09.09.2014. It does appear that the entire exercise of levying penalty on the petitioner was not under Section 10(a) but under Section 10A of the CST Act. While the error in the order would have been the subject matter of challenge in writ proceedings separately, the fact that the respondent has put words in the mouth of the court and has, on his own accord, chosen to substitute Section 10(a) of the CST Act in the order of this Court dated 11.08.2014, by Section 10A of the CST Act, is a matter of concern. Such an act of gross negligence or interpolation would justify action being taken against the respondent.

An additional counter affidavit has now been filed by the respondent tendering unconditional apology. The respondent-contemnor is also present in Court. While we were initially inclined to impose a penalty of fine, the respondent-contemnor, who is present in Court today, expresses regret, undertakes to be careful in future, and to avoid recurrence of such mistakes. Considering the fact that the respondent-contemnor is 44 years of age and any order of penalty (even if it be of fine) may mar his career prospects, we consider it appropriate to let him of with a warning to be more careful in future.

The contempt case is, accordingly, closed. Contempt Applications pending, if any, shall also stand closed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

04th March 2015.
JSU

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
And
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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Date: 04.03.2015

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