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

WRIT PETITION No.41686 of 2015

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

Sri V.Bhaskar Reddy, learned counsel for the petitioner, would fault the assessing authority for the haste in which the impugned penalty order came to be passed. Learned counsel would submit that, in reply to the show cause notice dated 30.09.2015, proposing imposition of penalty the petitioner had furnished an elaborate reply by their letter dated 10.10.2015 (a copy of which was served on the assessing authority on 12.10.2015) pointing out that the Writ Petition, filed against the assessment order, was pending on the file of this Court; and that hearing be deferred. A similar letter was addressed on 30.10.2015 informing the assessing authority that a Miscellaneous Petition has been filed seeking stay orders of the Court, and that no coercive steps be taken till the decision of this Court. According to the learned counsel though the assessing authority had nearly four more years to pass the order of penalty, the order was passed in haste, without taking into consideration the objections filed by the petitioner, and without giving them an opportunity of being heard; and these unjust acts of the assessing authority warrant a stringent view being taken by this Court lest the dealers, and the general public, loose confidence in the manner in which the Commercial Tax Department of the State discharges its functions.

While the submission of Sri V.Bhaskar Reddy, learned counsel for the petitioner, cannot be said to be without merit, and the assessing authority could well have refrained from passing a penalty order immediately, more so when the limitation for passing the order of penalty would not expire in the next four years, we do not propose to delve on this aspect any further, as W.P.No.35545 of 2015, filed against the order of assessment, was set aside by this Court by order dated 19.11.2015 directing the assessing authority to pass a fresh order of assessment in accordance with law. As the very assessment order, based on which penalty proceedings have been initiated, has itself been set aside, the penalty order does not survive and must also be, and is accordingly, set aside.

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

RAMESH RANGANATHAN, J

M. SATYANARAYANA MURTHY, J

28th December, 2015
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