THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

-

Writ Petition No.23623 of 2015

-

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

The petitioner was assessed to tax by the Commercial Tax Officer, Marredpally Circle, Secunderabad, under the Central Sales Tax Act for the year 2008-09. An assessment order was passed giving exemption, for the turnover representing stock/branch transfers outside the State against F-Forms, as the dealer had filed F-Form declarations to the said effect. Subsequently a notice, under Rule 14(8) and (9) of the CST (R&T) Rules, was issued levying tax of Rs.11,11,340/- at 4% on the ground that the assessee had furnished F-Forms covering transactions for more than one calendar month instead of separate F-Forms for each calendar month. Thereafter, a revised assessment order was passed on 01.07.2015 subjecting the turnover of branch/stock transfers to tax on the ground that the F-Forms, produced by the assessee, covered a period of more than one month.

A Division Bench of this Court, in **Jitender Roller Flour Mills, Hyderabad v. Asst. Commissionr (CT) LTU, Charminar Division, Hyderabad**, held that, for exercise of the power of re-assessment, reliance should be made, not on the material on record, but on the material *de hors* the record which came to the notice of the assessing authority subsequent to the assessment; and, while the petitioner had filed the F-Forms for periods in excess of one calendar month, these F-Forms were before the assessing authority when he passed the order accepting and granting exemption, for the turnover, treating them as consignment sales; and such lack of diligence on the part of the assessing authority, could not be corrected in subsequent proceedings. Following the said judgment in **Jitender Roller Flour Mills, Hyderabad**[1], and in terms thereof, the impugned order dated 01.07.2015 is set aside on the ground that the assessment could not have been revised as the F-Forms were already on record before the assessing authority when he passed the assessment order earlier on 23.05.2011.

Sri J.Anil Kumar, Learned Special Standing Counsel for Commercial Taxes (Telangana), would, however, submit that, pursuant to the impugned order dated 01.07.2015, the F-Forms were returned to the petitioner under due acknowledgement; and the petitioner should be directed to resubmit the F-Forms to the assessing authority at the earliest. While the impugned order is set aside, the petitioner shall furnish copies of the F-Forms, which were handed over to him earlier, to the assessing authority at the earliest, and in any event not later than one month from the date of receipt of a copy of this order.

The Writ Petition is, accordingly, disposed of. The miscellaneous petitions pending, if any, shall also disposed of. No costs.

RAMESH RANGANATHAN, J

M. SATYANARAYANA MURTHY, J

Date:08.12.2015.

cs