THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

and

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No.34469 of 2015

ORDER: (per RR, J)

The order passed by the revisional authority - Deputy Commissioner (Commercial Taxes), Abids, Hyderabad dated 04.07.2015 is questioned, among others, on the ground of violation of principles of natural justice.

The petitioner, a company registered under the Companies Act and an assessee on the rolls of the third respondent, is engaged in the execution of works contracts to various Government Departments. They also execute sub-contracts allotted to them by M/s.Ramky Infrastructure Limited. Consequent on an inspection caused of the business premises of the petitioner, and on their books of accounts being audited, an assessment order was passed on 07.09.2011 levying tax of Rs.26,71,982/- on the contract receipts of the petitioner. The first respondent issued a revision show cause notice dated 13.10.2014, proposing to revise the common assessment order dated 07.09.2011, on the ground that the petitioner had claimed exemption on a turnover of Rs.4,30,93,953/- contrary to the provisions of the APVAT Act which had resulted in under-declaration of tax of Rs.17,23,758/-.

It is the petitioner's case that, though they had addressed a letter to the Deputy Commissioner on 23.02.2015 asking him to give them time as their Accountant was suffering from acute jaundice, to inform them of the next date of revision, and for an opportunity of personal hearing, the impugned order was passed on 04.07.2015 without giving them an opportunity of being heard.

When the matter came up earlier, we asked Sri M.Govind Reddy, learned Special Standing Counsel for Commercial Taxes, to ascertain how the assessing authority had included a turnover of Rs.4,30,93,953/-, relating to the sale of batteries, in the turnover of the petitioner who was merely executing works contracts. Today,
Sri M.Govind Reddy, learned Special Standing Counsel for Commercial Taxes, would submit that the first respondent is willing to give the petitioner another opportunity of being heard, and if the petitioner submits their reply to the show cause notice within 15 days from today, the reply would be considered, the petitioner would then be afforded a personal hearing, and a fresh order will be passed in accordance with law.

In view of the submission of learned Special Standing Counsel, the impugned order, passed by the revisional authority, is set aside. It is made clear that, in case the petitioner fails to submit their reply to the show cause notice within 15 days from today, it would then be open to the first respondent to proceed, and pass a fresh order in accordance with law.

The writ petition is, accordingly, disposed of.

Miscellaneous Petitions, if any pending, also stand disposed of.

RAMESH RANGANATHAN, J

1st DECEMBER, 2015.

M.SATYANARAYANA MURTHY, J

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