

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No.12684 of 2013

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

The order under challenge in this writ petition is the order passed in O.A.No.5180 of 2010 and V.M.A.No.2448 of 2010 dated 12.11.2012.

The 1st respondent herein filed O.A.No.5180 of 2010 requesting the Tribunal to call for the records pertaining to the order of deduction of Rs.1,75,947/-, vide Gratuity Payment Order dated 08.09.2008 passed by the Accountant General as illegal, without power or jurisdiction and contrary to law. He also sought a direction to set aside the consequential order passed by the 1st respondent dated 03.07.2010 as illegal, arbitrary and unsustainable; and to direct the 1st respondent to immediately release the deducted amount of Rs.1,75,947/- along with the penal interest.

By way of an interim order passed on 03.08.2010, the Tribunal directed the respondents to release the amount of Rs.1,75,947/- to the applicant within a period of two (2) weeks, as no notice had been issued to him prior to initiation of recovery of the said amount. The effect of the said interim order is to allow the O.A. itself. Courts/Tribunals would, ordinarily, not pass interim order much less an *ex parte* interim order which has the effect of allowing the O.A. itself.

Be that as it may, an application to vacate stay was filed by the Government; and, by the order under challenge in this writ petition, the Tribunal noted that the respondents in the O.A. (petitioners herein) had filed a counter mentioning that the amount, recovered from the gratuity of the applicant, was remitted to the Government; therefore, the Commissioner of Excise had to prepare the bill and draw the amount and pay the same to the applicant. Thereafter the Tribunal held thus:-

"in the light of the above circumstances, the interim orders are made absolute. The O.A. is accordingly disposed of. The V.M.A. is closed."

The order of the Tribunal is bereft of reasons. The Tribunal has

chosen not to assign any reasons either for making the interim order absolute or for disposing of the O.A. On this short ground alone, the order of the Tribunal must be and is, accordingly, set aside. As the O.A. relates to the year 2010, and the amount was recovered from the 1st respondent's retiral benefits as early as on 08.09.2008, it is but appropriate that the O.A. be heard and disposed of at the earliest, preferably before 30.06.2015.

The writ petition is, accordingly, allowed. Miscellaneous petitions pending, if any, shall also stand allowed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

09th April 2015.
JSU

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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Date: 09.04.2015

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