

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLR SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NOs.26453 AND 28547 OF 2015

COMMON ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

WP.No.26453 of 2015 is filed seeking a Mandamus to declare the letter dated 06.07.2015 issued by the second respondent to the third respondent asking them to remit all the amounts, in the bank accounts of the petitioner, to the Principal Commissioner, Service Tax to the extent of the petitioner's liability of Rs.21 crores apart from interest and penalty. This Court, by order dated 28.08.2015, granted interim stay as prayed for, for a period of two weeks. The interim order was extended thereafter, and continues to remain in force as on date.

WP.No.28547 of 2015 is filed by the petitioner herein to declare the action of the respondents in not providing photocopies of the documents seized by the respondents, from the premises of the petitioner company and Sri Nitya Exports Private Limited on 19.06.2015, and in insisting on recording the statement of the Managing Director of the petitioner company without providing photocopies of the seized documents as violative of principles of natural justice, and an abuse of process of law.

During the pendency of the proceedings before this Court, the respondents issued notice dated 21.10.2015 calling upon the petitioner to show cause why action should not be taken against them for non-payment of the service tax liability in excess of Rs.21 crores. As there was a dispute regarding supply of documents, this Court asked the learned counsel for the petitioner to furnish details of the documents sought for by the petitioner. On 09.12.2015, the learned counsel for the petitioner stated that the petitioner had received the following documents, other than:-

1. One box file named Signet containing ITRs.
2. One box file named RJS containing valuation report.
3. One box file named Signet containing misc. papers.
4. One box file named RJS containing KL Kata.

5. One box file named Parker containing misc. papers.
6. One box file named Dolfin containing misc. papers.
7. One box file named RJS containing misc. papers.
8. One flat file named Potnuru & Associates containing Bank statement.

While admitting that the documents, referred to in the proceedings dated 09.12.2015, have since been supplied to the petitioner, Sri Ch.Pushyam Kiran, learned counsel for the petitioner, would refer to their letter dated 21.12.2015, to contend that several other documents have not been furnished to them. It is only with a view to put a quietus to this dispute, did this Court call upon the petitioner to submit a list of documents which the respondents should be called upon to furnish to them. Pursuant thereto this Court, by order dated 09.12.2015, had called upon the respondents to furnish the said documents to the petitioner herein. Having acknowledged receipt of these documents, the petitioner now seeks further documents. It does appear that their request for further documents is only a ruse to drag on proceedings, after having obtained an interim order from this Court.

It is settled law that the documents, on which the respondents choose to rely upon, must be made available to the person against whom action is proposed to be taken; and failure to supply such documents would result in violation of principles of natural justice. Sri Jalakam Sathyaram, learned Standing Counsel for the Central Excise Department, would submit that the documents, on which the Department placed reliance on, as also the documents which the petitioner desired to be supplied, have been furnished to them.

We consider it appropriate, in such circumstances, to dispose of both the Writ Petitions permitting the petitioner to submit their reply to the show cause notice within three (3) weeks from today. The respondents shall, after giving the petitioner an opportunity of personal hearing, pass orders expeditiously, in any event not later than two (2) months from today. It is made clear that, in case the petitioner does not participate in the personal hearing afforded to them or fails to give a reply to the show cause notice within the time stipulated above, it is open to the respondents, thereafter, to proceed and pass orders in accordance with law. Till an adjudication order is passed, the respondents shall not take any coercive steps against the petitioner.

Both the Writ Petitions are disposed of, accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending in both the Writ Petitions shall stand closed.

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

28th December 2015

RRB