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

WRIT PETITION No.3792 of 2016

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

Heard Sri S.R.R.Viswanath, learned counsel for the petitioner, and Sri Sk.Jeelani Basha, learned Special Standing Counsel for Commercial Taxes and, with their consent, the Writ Petition is being disposed of at the stage of admission.

The proceedings under challenge in this Writ Petition is the order passed by the first respondent in Form-VAT-203/AAO No.44704 dated 31.12.2015 levying penalty on the petitioner under Section 53 (3) of the Andhra Pradesh Value Added Tax Act, 2005. For the tax period April 2014 to March 2015 the petitioner was assessed to tax by the first respondent on 19.09.2015. Aggrieved thereby, the petitioner preferred an appeal to the Appellate Deputy Commissioner. While the petitioner's appeal was pending on the file of the Appellate Deputy Commissioner, the first respondent passed the impugned order of penalty dated 31.12.2015. Subsequently, by order dated 22.01.2016, the appellate authority remanded the matter to the assessing authority. As the original order of assessment dated 19.09.2015 no longer survives, consequent upon the appellate authority's order dated 22.01.2016 remanding the matter to the assessing authority, the consequential penalty order dated 31.12.2015 must be and is, accordingly, set aside. Needless to state that this order shall not preclude the respondents from initiating penalty proceedings, if they so choose, after a fresh assessment order is passed.

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

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

12th February, 2016.
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