

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

W.P.No.17162 of 2016

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

Heard Sri S.Dwarakanath, learned counsel for the petitioner, and Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes and, with their consent, the writ petition is disposed of at the stage of admission.

The order impugned in this writ petition is the order of penalty dated 10.05.2016 for the tax period 2012-13 to 2015-16. The said order of penalty was passed as a consequence of the assessment order in Form VAT 305 dated 20.02.2016. The petitioner questioned the assessment order, except to the extent of under-declaration of output tax of Rs.52,750/- and ineligible claim of input tax of Rs.11,446/- i.e for a total sum of Rs.64,196/-, before the Appellate Deputy Commissioner.

Sri S.Dwarakanath, learned counsel for the petitioner, submits that this amount of Rs.64,196/- has already been paid by the petitioner.

During the pendency of the appeal, an order of penalty was passed imposing 100% penalty on Rs.36,70,816/- and 10% on Rs.64,196/-. The Appellate Deputy Commissioner, by his order dated 25.05.2016, set aside the assessment order dated 20.02.2016 and remanded the matter to the assessing authority for denovo verification.

As the impugned penalty order dated 10.05.2016 was passed as a consequence of the assessment order, which has been set aside in appeal, the order of penalty, except to the extent penalty of Rs.6,420/- was imposed on the petitioner, must be and is, accordingly, set aside.

Sri S.Dwarakanath, learned counsel for the petitioner, would submit that the petitioner would pay the undisputed penalty of Rs.6,420/- within one week from today. It is made clear that this order shall not preclude the respondents, if they so choose, from initiating

penalty proceedings after a fresh order of assessment is passed in accordance with law.

The writ petition stands disposed of accordingly. The 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

Date:03.06.2016

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THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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