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

Writ Petition No.9243 of 2016

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

Heard Sri V.Bhaskar Reddy, learned counsel for the petitioner, and Sri M.Govind Reddy, learned Special Standing Counsel for Commercial Taxes and, at their request, the writ petition is disposed of at the stage of admission.

The order passed by the revisional authority dated 05.11.2015 is under challenge in this writ petition. While several grounds are urged regarding the validity of the revisional order, it would suffice to note that the revisional authority had, in the impugned order, referred to the provisions of the Persons with Disabilities Act, 1995, and G.O.Ms.No.31 dated 01.12.2009 to hold that the "wheel chair", which is in issue in the present Writ Petition, is not exclusively used by the physically handicapped, and patients in hospitals would not fall under the physically handicapped category.

Sri V.Bhaskar Reddy, learned counsel for the petitioner, would submit that, as these statutory provisions and the guidelines in G.O.Ms.No.31 were not referred to in the show cause notice issued earlier, the petitioner has thereby been denied the opportunity of filing their objections thereto. In so far as tax levied on medical equipment, such as B.P. apparatus etc, is concerned Sri V.Bhaskar Reddy, learned counsel for the petitioner, would rely on a judgment of a Division Bench of this Court in W.P.Nos.2802 of 2010 & 22372 of 2014 dated 16.09.2014 to submit that the impugned order, to the extent it relates to medical equipment, must be set aside.

As we are satisfied that the impugned revisional order must be set aside on the short ground that the petitioner was denied an opportunity of submitting an effective reply to the earlier show cause notice, the contention, based on the judgment of the Division Bench of this Court in W.P.Nos.2802 of 2010 & 22372 of 2014, can also be urged before the revisional authority.

Ends of justice would be met if the impugned revisional order is set aside, the said order is treated as a show cause notice, and the petitioner is permitted to file their objections thereto within two weeks from today. On such objections being filed, the revisional authority shall consider the said objections, and pass an order afresh in accordance with law after providing the petitioner an opportunity of a personal hearing. Needless to state that failure on the part of the petitioner, to file their objections within the aforesaid period of two weeks, would enable the revisional authority to proceed and pass an order afresh without granting any further time to the petitioner.

The writ petition is 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: 29.03.2016
JSU

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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