THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.7650 OF 2016

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

Heard Sri Bhaskar Reddy Vemireddy, learned counsel for the petitioner and Sri T.Vinod Kumar, learned Standing Counsel for Commercial Taxes and, with their consent, the Writ Petition is disposed of at the stage of admission.

The assessment order dated 17.02.2016 is subjected to challenge in this Writ Petition on the ground that the purchase turnover supported by "F" forms was treated as suppressed sales turnover after adding a percentage of gross profit thereto, even though the petitioner had, earlier by letters dated 31.01.2013 and 02.02.2013, requested the territorial assessing authority to cancel the defective "F" declaration forms, and to allow them to obtain fresh "F" declaration forms from the CDSC.

The petitioner claims to have obtained fresh "F" declaration forms, and to have submitted such forms based on the endorsement of the territorial assessing authority cancelling the defective "F" forms issued earlier. The petitioner appears to have been subjected to tax treating the purchases, covered by "F" declaration forms, as suppressed sales turnover (after adding a percentage of gross profit to such purchases), on the ground that they had obtained "F" declaration forms twice, though it is their case that they had already surrendered the earlier defective "F" declaration forms, and had submitted only the fresh "F" declaration forms. The impugned assessment order was passed not by the territorial assessing authority, but by the Audit Officer.

While Sri Bhaskar Reddy Vemireddy, learned counsel for the petitioner, would submit that, if the turnover representing the "F" forms is excluded, there would be no tax liability, Sri T.Vinod Kumar, learned Standing Counsel for Commercial Taxes would, however, contend that, even if the turnover representing the “F” forms is excluded, the petitioner would be liable to tax for the remaining turnover.

It is wholly unnecessary for us to dwell on this aspect as the question whether the “F” forms have already been cancelled, or whether they should be now cancelled, are all matters for the territorial assessing authority to consider. The impugned assessment order is set aside. The first respondent shall pass orders, on the petitioner’s applications dated 31.01.2013 and 02.02.2013 for cancellation of the defective “F” forms, within four (4) weeks from the date of receipt of a copy of this order. After such an order is passed, the assessing authority shall pass an assessment order afresh, and in accordance with law, within two months thereafter after affording the petitioner an opportunity of a personal hearing.

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

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

10th March 2016
RRB