THE HON'BLE THE ACTING CHIEF JUSTICE SRI RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Petition No.31305 of 2016

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

The proceedings, under challenge in this Writ Petition, is the assessment order passed in Form VAT 305 dated 30.07.2016 subjecting the petitioner to tax on the execution of works contracts.

The petitioner is a sub-contractor. The principal contractor sought composition under Section 4(7)(b) of the A.P. VAT Act, 2005. It is petitioner's case that the principal contractor has been subjected to tax under composition in terms of Section 4(7)(b); and, consequently, the sub-contractor cannot be subjected to tax on the very same turnover. The petitioner also claims that the assessment order is partially barred by limitation for the years 2009-10 to 2011-12.

Sri S.Suri Babu, Learned Special Standing Counsel for Commercial Taxes (AP), fairly states that the question whether the principal contractor was subjected to composition under Section 4(7)(b), resulting in the sub-contractor not being liable to tax on the very same turnover, has not been examined by the assessing authority; and, instead of keeping the Writ Petition pending on the file of this Court, it would suffice if the assessing authority were to be directed to pass an assessment order afresh in accordance with law, leaving all the questions raised in the Writ Petition to be adjudicated by him.

In view of the submission of Sri S.Suri Babu, Learned Special Standing Counsel for Commercial Taxes (AP), the impugned order of assessment is set aside. The assessing authority shall, after giving an opportunity of personal hearing to the petitioner, pass an assessment order afresh in accordance with law. Needless to state that all contentions raised in this Writ Petition, including on the question of limitation, are left open to be canvassed by the petitioner before the assessing authority.

The Writ Petition is, accordingly, disposed of. The miscellaneous petitions pending, if any, shall also stand disposed of. No costs.

RAMESH RANGANATHAN, ACJ

A.SHANKAR NARAYANA, J

Date:09.11.2016
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