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

Writ Petition No.34686 of 2015

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

The assessment order dated 14.08.2015 passed by the second respondent, for the period 2011-12 to 2014-15 (upto 23.05.2015), is questioned in this Writ Petition as being void, without jurisdiction and in violation of principles of natural justice.

The petitioner, a registered dealer in the State of Andhra Pradesh, was subjected to tax, among others, on a turnover of Rs.32,13,900/- as suppressed purchases; 5% gross profit was added thereto to determine the suppressed sale value; and tax of Rs.1,68,730/- was levied thereupon.

Sri P.Balaji Varma, learned counsel for the petitioner, would submit that, even according to the assessing authority, the dealer had purchased pulses from the State of Karnataka, and had obtained transit passes from the Telangana Commercial Tax Department to pass through the State of Telangana; it is not even the case of the Revenue that these goods entered the State of Andhra Pradesh; and, without recording a finding that the goods had entered the State of Andhra Pradesh, the assessing authority lacked jurisdiction to levy tax on the alleged suppressed turnover.

We must express our inability to agree. The petitioner is a registered dealer within the State of Andhra Pradesh. The transit passes were obtained in their name. If, as is now contended before us, the goods had not been shown to have entered the State of Andhra Pradesh, it was for the petitioner to show where it exited from, and where it was delivered; and, if not, whether the goods were sold within the State of Telangana. Even if the goods had been sold within the State of Telangana the petitioner, a registered dealer in the State of

Andhra Pradesh, ought to have furnished such information to the assessing authority. If the petitioner's claim that their account was misused, and somebody else had obtained transit passes in their name, is to be accepted, the petitioner ought to have atleast lodged a police complaint for causing an investigation into such misuse, and for necessary action being taken thereafter. The contention of the Revenue, that turnover was suppressed, is not unfounded as the petitioner remained silent in this regard. The jurisdiction, which this Court exercises under Article 226 of the Constitution of India, is limited to an examination whether the order suffers from an error of law apparent on the face of the record. This Court would not act as an appellate authority to re-appreciate findings of fact recorded by the assessing authority. We find no illegality in the order of the assessing authority necessitating interference in proceedings under Article 226 of the Constitution of India.

The Writ Petition fails and is, accordingly, dismissed. Miscellaneous petitions pending, if any, shall stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M. SATYANARAYANA MURTHY, J

04th February, 2016.
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