

**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**  
**AND**  
**THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT**

**W.P.No.11134 of 2016**

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

Heard Dr.S.R.R.Viswanath, learned counsel for the petitioner, and Sri J.Anil Kumar learned Special Standing Counsel for Commercial Taxes, and, with their consent, the writ petition is disposed of at the stage of admission. The proceedings under challenge in this writ petition is the order of penalty dated 08.02.2016 passed under Section 53 of the Telangana Value Added Tax Act, 2005.

Facts, to the limited extent necessary, are that the petitioner was assessed to tax for the period 2009-10 to 2014-15 pursuant to an assessment order passed on 04.06.2015. Aggrieved thereby, the petitioner carried the matter in appeal to the Appellate Deputy Commissioner on 08.07.2015. During the pendency of the petitioner's appeal before the Appellate Deputy Commissioner, the impugned order of penalty was passed on 08.02.2016, a copy of which the petitioner received on 23.02.2016. Thereafter, the Appellate Deputy Commissioner passed an order dated 21.03.2016 setting aside the order passed by the assessing authority, and remanded the matter to the assessing authority directing him to redo the assessment afresh after affording an opportunity to the petitioner.

An order imposing penalty is an order passed consequent to the order of assessment and, as the very assessment order has been set aside in appeal by the Appellate Deputy Commissioner by his order dated 21.03.2016, the consequential penalty order would no longer survive and must, accordingly, be set aside. Needless to state that this order shall not preclude the respondents, if they so choose, from initiating penalty proceedings after a fresh order of assessment is passed.

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**

**SURESH KUMAR KAIT, J**

Date: 13.04.2016

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