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

Writ Petition No.18216 of 2016

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

Heard Sri S.Dwarakanath, learned counsel for the petitioner, and Sri S.Suri Babu, 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 assessment order dated 31.03.2016 issued in Form VAT 305 on the ground of violation of principles of natural justice.

Sri S.Dwarakanath, learned counsel for the petitioner, would submit that, though the petitioner had sought for a personal hearing, the assessing authority had passed the impugned order of assessment without affording them such an opportunity; the submission made by the learned Standing Counsel across the bar, that the petitioner was afforded such an opportunity, is not correct; while the notice of personal hearing, alleged to have been sent on 26.03.2016, contains the endorsement of one Sri K. Subba Rao, it is evident from the Pan Card and the bank account form of the firm that the signatures do not belong to that of Sri K. Naga Subba Rao, a partner of the firm; if, as contended by the respondents, such a opportunity of a personal hearing had been afforded to the petitioner, the assessment order would have referred to the said fact; and, consequently, the impugned order must be set aside.

Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, would fairly state that the impugned order of assessment makes no reference to the petitioner having been afforded a personal hearing and, as there appears to be a dispute as to whether the notice of personal hearing dated 26.03.2016 was in fact served on the partner of the petitioner-firm, it would suffice if this Court, instead of admitting the writ petition and granting stay, were to set aside the order leaving it open to the assessing authority to pass an assessment order afresh after affording the petitioner an opportunity of a personal hearing.

In view of the submission now made across the Bar by Sri S. Suri Babu, learned Special Standing Counsel for Commercial Taxes, we see no reason to dwell on whether or not the endorsement on the notice of hearing dated 26.03.2016 is that of the partner of the petitioner firm. The impugned order of assessment must be, and is accordingly, set aside. The assessing authority shall, after giving the petitioner an opportunity of a personal hearing, pass an order afresh and in accordance with law at the earliest, in any event not later than one month from the date of receipt of a copy of this order.

The writ petition stands disposed of accordingly. The miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M. SATYANARAYANA MURTHY, J

Date: 20.06.2016
JSU

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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