THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.6619 OF 2016

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

Heard Sri M.V.J.K.Kumar, 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 proceedings under challenge in this Writ Petition is the assessment order passed by the Commercial Tax Officer (CTO), Karimnagar dated 30.12.2015 subjecting the petitioner to tax on a turnover relating to sports goods on the ground that he was not even registered as a dealer in Karimnagar. The petitioner, however, contended that he had applied for registration in Warangal, and in the said application he had shown that they had a branch at Karimnagar. While the CTO, Karimnagar issued a show cause notice on 16.11.2013 asking the petitioner to show cause within one week from that date i.e., on or before 23.11.2015, the petitioner submitted their reply to the show cause notice on 10.12.2015 wherein they sought an opportunity of being heard in person. Without giving the petitioner the opportunity of personal hearing, the impugned assessment order was passed on 30.12.2015.

Sri M.V.J.K.Kumar, learned counsel for the petitioner, would submit that, as the petitioner has specifically requested for a personal hearing, the impugned order, which was passed without affording the petitioner such an opportunity, is in violation of principles of natural justice. Sri T.Vinod Kumar, learned Standing Counsel for Commercial Taxes, on instructions, would submit that the petitioner has not even applied for registration of the Karimnagar branch even before the authorities at Warangal.

It is well settled law that, whenever a dealer specifically requests for an opportunity of personal hearing, failure to provide such an opportunity would be in violation of principles of natural justice. The impugned order must be and is, accordingly, set aside on this short ground. Needless to state that this order shall not preclude the respondents from issuing a notice of personal hearing, extend the petitioner an opportunity of personal hearing, and thereafter pass an order afresh in accordance with law. We make it clear that we have not expressed any opinion on the submission of Sri T.Vinod Kumar, learned Standing Counsel for Commercial Taxes, that the petitioner has not even applied for registration at Warangal with regards their Karimnagar branch, as these are all matters which the CTO, Karimnagar is required to examine after affording the petitioner an opportunity of personal hearing.

The Writ Petition is 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)

9th March 2016
RRB