THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.20524 OF 2016

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

Heard Sri N.Kodanda Rama Rao, learned counsel for the petitioner and Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes and, with their consent, the Writ Petition is disposed of at the stage of admission. The impugned revision order passed by the Commissioner (CT) dated 05.03.2016 proposing to forfeit and recover Rs.17,42,586/- from the petitioner duly setting aside the orders passed by the Commercial Tax Officer and the Joint Commissioner (CT) is questioned in this Writ Petition, among other grounds, to be in violation of principles of natural justice.

The petitioner's contention is that the pre-revision notice dated 02.01.2016 was not served on them, and they were thereby deprived of the opportunity of filing their objections thereto. Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes, would submit that several attempts by the respondents, to have the notice served on the petitioner, were of no avail and, consequently, the impugned order was passed.

It is evident from the documents placed for our perusal that the show cause notice was sent to the petitioner's address in the State of Andhra Pradesh wherein they had executed works earlier. Sri N.Kodanda Rama Rao, learned counsel for the petitioner, would submit that the petitioner belongs to Karnataka and the very fact that the assessment order, sent to their residential address at Karnataka, was served on them would show that the respondents could have sent the show cause notice to the very same address earlier.

As it is not in dispute that the petitioner was not served with a copy of the show cause notice, and with a view to avoid any possibility of the notice issued afresh not being received by the petitioner, we consider it appropriate to set aside the impugned order of assessment, and direct that the impugned order be treated as a show cause notice. The petitioner shall furnish their reply thereto within two (2) weeks from today. The first respondent shall afford them an opportunity of a personal hearing on 18.07.2016 at 11 am and, thereafter, pass a fresh order of revision in accordance with law. It is made clear that failure on the part of the petitioner to file their objections within the aforesaid period of two weeks, or their failure to avail the opportunity of a personal hearing on 18.07.2016, would enable the first respondent to proceed and pass orders in accordance with law without affording the petitioner any further opportunity.

The Writ Petition stands 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)

30th June 2016
Note: Issue CC by Monday
B/O
RRB