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

Writ Petition No.18541 of 2016

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

Heard Sri B.Chandrasen Reddy, learned counsel for the petitioner, and Sri T.Vinod Kumar, learned Special Standing Counsel for Commercial Taxes and, with their consent, the writ petition is disposed of at the stage of admission.

The revised assessment orders for the years 1998-99 to 2001-02, passed by the 2nd respondent on 13.04.2016, are questioned in this writ petition as being barred by limitation. Sri B.Chandrasen Reddy, learned counsel for the petitioner, would submit that a Division Bench of this Court had, by order in W.P.No.4869 of 2008 dated 02.04.2012, set aside the impugned assessment orders for the years 1998-99 to 2001-02 leaving it open to the assessing authority to pass fresh orders of assessment after affording due, fair and reasonable opportunity to the petitioner, including by supplying all such material on the basis of which the assessments are proposed to be made, and after furnishing copies of statements of witnesses/persons proposed to be relied upon, and affording the petitioner an opportunity to cross-examine those witnesses; the impugned assessment orders were passed on 13.04.2016; the limitation prescribed under Section 24-A of the A.P.General Sales Tax Act (for short "the Act") is three years from the date of receipt of a copy of order by the assessing authority; and the assessment order is barred by limitation.

As the orders passed by this Court is dated 02.04.2012, a copy thereof must have been received by the office of the assessing authority somewhere in the year 2012 and consequently the period of limitation of three years would have expired in the year 2015 itself. The 2nd respondent, however, rejected their plea that it is barred by limitation holding that the period of three years must be computed from the date on which he received a copy of the order of the High Court; as he was authorised to assess the petitioner to tax only by order dated

18.04.2013, the three year period would expire only on 17.04.2016; and, consequently, the assessment orders are within limitation.

Accepting the assessing authority's construction of Section 24-A of the Act would mean that, with every change in the incumbent assessing authority, the period of limitation would get extended on the ground that it is only on the incumbent coming to know of the order of the High Court would the limitation of three years start to run. The limitation under Section 24-A of the Act is three years from the date of receipt of the order by the assessing authority which only means that the limitation of three years would begin to run from the date of receipt of the order of the High Court in the office of the assessing authority, and not receipt of the order of the High Court by each assessing authority on assuming office. It is evident, therefore, that the re-assessment orders, for the period 1998-99 to 2001-02, are barred by limitation.

The writ petition is allowed and the assessment orders are, accordingly, set aside. The miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M. SATYANARAYANA MURTHY, J

Date: 16.06.2016
JSU

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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