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

<u>Writ Petition No.8103 of 2016</u>

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<u>ORDER</u>: (per Hon'ble Sri Justice Ramesh Ranganathan)

The relief sought for in this writ petition is to call for the records of the re-assessment order dated 24.02.2016 issued by the 6th respondent, and to quash the same as being illegal, arbitrary, contrary to principles of natural justice, and violative of Article 14 of the Constitution of India.

Sri M.Karuna Sagar, learned counsel for the petitioner, would draw our attention to the re-assessment order dated 24.02.2016, to submit that the assessing authority had stated that all the photostat copies were furnished to the petitioner except a copy of the panchanama, and the letter said to have been addressed to the Joint Commissioner (Enforcement), Hyderabad. According to the Learned counsel, these documents ought to have been furnished to the petitioner, and failure to do so has denied the petitioner an opportunity of putting forth his objections thereto.

Sri M.Govind Reddy, learned Special Standing Counsel for Commercial Taxes, would, however, contend that the proceedings of the Additional Commissioner, Enforcement dated 10.10.2012 is the proceedings of the Joint Commissioner, Enforcement, Hyderabad referred to in the assessment order; and a copy of the panchanama was not furnished, as no panchanama was conducted in the first place. Learned Special Standing counsel would submit that, as the panchanama was not relied upon by the assessing authority, the impugned assessment order did not necessitate interference.

While the jurisdiction of this Court, under Article 226 of the Constitution of India, can no doubt be invoked for violation of principles of natural justice, such a contention can also be raised before the

Appellate Authority constituted under the A.P.Value Added Tax Act, 2005 (for short “the Act”). The question whether failure to furnish a copy of the panchanama has resulted in the petitioner being denied the opportunity of putting forth his defence, when it is evident that the assessing authority has not relied upon any such panchanama, is again a matter which the appellate authority can examine.

As the petitioner has an effective alternative remedy of an appeal, and the limitation period prescribed under the Act has not yet expired, we do not see any reason to exercise discretion to entertain the writ petition. Leaving it open to the petitioner to avail the statutory remedy of an appeal under the Act, the writ petition fails and is, accordingly, dismissed.

We make it clear that we have not expressed any opinion on the merits of the contentions urged by the learned counsel on either side, and in case the petitioner prefers an appeal, the appellate authority shall decide the appeal on its merits uninfluenced by the observations, if any, made in this order.

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:22.03.2016
JSU

THE HON’BLE SRI JUSTICE RAMESH RANGANATHAN

AND

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