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

Writ Petition No.17798 of 2016

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

Heard Sri S.Dwarakanath, learned counsel for the petitioner, and Sri J.Anil Kumar, 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 final assessment order, passed by the assessing authority for the assessment year 2012-13, to the extent 'C' Forms filed by the petitioner were rejected without putting them on notice and without giving them an opportunity of being heard.

While Sri S.Dwarakanath, learned counsel for the petitioner, would rely on the judgment of this Court in ***Bharat Electronics Limited vs. Deputy Commissioner (CT)***[1] in support of his submission that the statutory 'C' Forms submitted by the petitioner could not have been rejected without complying with the *audi alteram partem* rule, Sri J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes, would submit that, while the petitioner may not have been put on notice, the assessment order was passed only on the basis of the material placed by the petitioner before the assessing authority. Learned Special Standing Counsel would submit that, even if this Court were to set side the assessment order for violation of principles of natural justice, it is only that part of the assessment order, which relates to rejection of 'C' Forms, which necessitates interference and not the assessment order in its entirety. Sri S.Dwarakanath, learned counsel for the petitioner, would, however, contend that, in terms of Rule 12(7) of the Central Sales Tax (R&T) Rules, it is open to the assessing authority to accept 'C' Forms even after an assessment order is passed.

The law declared by this Court in ***Bharat Electronics Limited***[1] required the assessing authority to comply with the *audi alteram partem* rule before rejecting the 'C' Forms submitted by the petitioner. As the petitioner was not afforded any such opportunity, the impugned order of assessment, to the extent 'C' Forms were rejected, must be, and is accordingly set side. It is made clear that the assessment order, except to the extent 'C' Forms were rejected, does not necessitate interference and it is open to the respondents to take further action in accordance with law. Needless to state that this order shall not preclude the petitioner from enforcing their rights in terms of Rule 12(7) of the Central Sales Tax (R&T) Rules.

The writ petition is 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:14.06.2016
JSU

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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[1] (2011) 46 VST 179