THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No.26149 of 2015

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

The order passed by the revisional authority i.e. the Deputy Commissioner (CT) Hyderabad dated 27.06.2015, to the extent the petitioner was not granted time to rectify the H-Declaration Forms, is questioned in this Writ Petition as being arbitrary and illegal.

The revisional authority found that the H-Declaration Forms were defective; the essential requirement of claiming exemption under Section 5 (3) of the Central Sales Tax Act, 1956 was that the foreign buyers order number and date should be provided in Form-H; and, in the absence of such order number and date being furnished, the genuineness of the transaction could not be established to be a sale in the course of export. The revisional authority observed that neither was this information furnished in the H-Declaration Form nor in the statement appended to it.

Sri G.Narendra Chetty, learned counsel for the petitioner, would submit that this defect was not pointed out by the revisional authority in the show cause notice and, in its absence, the petitioner was denied the opportunity of submitting an effective reply thereto. On being asked whether the finding recorded by the revisional authority, of the H-forms being defective, was correct or not, Sri G.Narendra Chetty, learned counsel for the petitioner, would fairly state that the H-Declaration Form submitted by the petitioner does not contain the aforesaid particulars; and it would suffice if this Court were to remand the matter to the revisional authority to this limited extent, and grant the petitioner one month's time to correct the H-Declaration Forms.

Sri M.Govind Reddy, learned Special Standing Counsel for Commercial Taxes, would request this Court to make it clear that, failure on the part of the petitioner to furnish the said information within the time stipulated by this Court, would result in revival of the order passed by the revisional authority.

Ends of justice would be met if the impugned revisional order is set aside to the limited extent that the defective H-Declaration Forms were rejected. The H-Declaration Forms shall be returned to the dealer within one week from today to enable him to rectify the same. The petitioner shall, within one month from today, rectify the H-Declaration Forms and submit them to the revisional authority. In case the rectified H-Declaration Forms are submitted within the time stipulated, the revisional authority shall consider the same and pass an order afresh in accordance with law. It is made clear that, failure on the part of the petitioner to furnish the rectified H-Declaration Forms within one month from today, would result in revival of the revisional order; and it would then be open to the revisional authority to take action thereafter in accordance with law.

The Writ Petition stands disposed of accordingly. 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

08th March, 2016.

Note:

Furnish C.C. of the order by 11.03.2016.

B/o

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