THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

WRIT PETITION No.15150 of 2016

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

Heard Sri Karan Talwar, learned counsel for the petitioner, and Sri S.Suri Babu, 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 assessment order passed by the Commercial Tax Officer, Visakhapatnam dated 24.03.2016 subjecting the turnover, which the petitioner claims are High Sea Sales, to tax as inter-state sales under the CST Act. In their letter dated 24.07.2015, filed in reply to the revised show cause notice dated 25.06.2015, the petitioner, while seeking time to file further submissions, also sought for an oral hearing.

Sri Karan Talwar, learned counsel for the petitioner, would submit that the petitioner was afforded an opportunity of a personal hearing earlier; consequent on the change of the Officer, the new Officer did not afford them an opportunity of personal hearing; and, though several judgments were relied upon by the petitioner in their written submissions, none of them have even been referred to, let alone considered, in the assessment order. On the other hand Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, would submit that no personal hearing was afforded even by the earlier Officer.

As the petitioner had specifically sought for a personal hearing, failure on the part of the assessing authority to afford them such an opportunity has resulted in violation of the rules of natural justice. On this short ground alone, the impugned assessment order must be, and is accordingly, set aside.

While the jurisdiction of the assessing authority to pass an order of assessment cannot be fettered by any directions from this Court, the law declared by the Supreme Court and the High Court bind the assessing authority. For the higher forums in the hierarchy of Courts/Tribunals to examine the validity of the assessment order, it is essential that the assessing authority considers and deals with the judicial pronouncements relied upon by the petitioner. We do not wish to say anything more as we have no reason to doubt that, after the petitioner is afforded an opportunity of a personal hearing, the assessing authority would consider the written submissions filed by them in accordance with law. The assessing authority shall fix any date before 15.05.2016 for personal hearing, and shall thereafter pass an order afresh in accordance with law.

The writ petition is, accordingly, disposed of. The miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

SURESH KUMAR KAIT, J

Date: 29.04.2016

Note: Issue CC by 02.05.2016
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