

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Petition No.12044 of 2009

ORDER: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

The impugned assessment order, whereby tax at 12.5% was levied, on the preparation of voter photo electoral rolls, is under challenge in this writ petition mainly on the ground that no reasons were assigned therein for treating voter photo electoral rolls as unclassified goods liable to tax at 12.5% under Schedule V to the A.P. Value Added Tax Act, 2005 (for short "the Act"). The submission of Sri Shaik Jeelani Basha, learned counsel for the petitioner, is that the subject work is in the nature of a works contract and is covered by the law laid down by the Supreme Court in ***State of Karnataka vs. Pro Lab***¹.

While fairly stating that the issue is covered by the aforesaid judgment of the Supreme Court, Sri J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes, would submit that the petitioner has not even chosen to file a reply to the show cause notices issued earlier; or to avail the opportunity of a personal hearing granted by the assessing authority; and this contention has been raised for the first time in the present writ proceedings.

The fact, however, remains that the question whether or not preparation of voter photo electoral rolls is a works contract has not been examined by the assessing authority, and in the light of the judgment of the Supreme Court in ***Pro Lab***¹ it is only on the value of the goods, involved in the execution of a work, that tax has to be levied under the Act; and not on the entire turnover of the works contract.

The impugned order of assessment is, therefore, set aside, and the matter is remanded to the assessing authority to consider the matter afresh, to give the petitioner an opportunity of being heard, and

¹ (2015) 8 SCC 557

thereafter to pass a fresh assessment order in the light of the law declared by the Supreme Court in ***Pro Lab***¹.

The Writ Petition is, accordingly, disposed of. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(A.SHANKAR NARAYANA, J)

30th November, 2016
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Date: 30.11.2016

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