THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Petition No.17553 of 2008

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

Heard Sri B.Vijaysen Reddy, learned counsel for the petitioner, and Sri J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes. The proceedings under challenge in this writ petition is the order dated 15.06.2007 whereby the petitioner was subjected to tax under Section 4(8) of the A.P. Value Added Tax Act, 2005 (for short "the Act") on the ground that he had transferred the right to use his bus by the APSRTC, Karimnagar Region for the period 01.04.2005 to 31.12.2005.

The impugned order refers to the show cause notice issued earlier, and records that the petitioner had refused to receive a copy thereof, and consequently the requirements of Rule 64 of the A.P. Value Added Tax Rules had been satisfied. It is evident from a mere reading of the said order that no reasons have been assigned for subjecting the petitioner to tax under the Act.

While Sri J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes, would fairly state that the assessing authority ought to have assigned reasons; and the matter may be remanded to enable him to pass a reasoned order afresh in accordance with law, Sri B.Vijaysen Reddy, learned counsel for the petitioner, would request an opportunity to be given to the petitioner to file his reply to the show cause notice.

While it does appear that the petitioner had failed to avail the opportunity granted to him earlier to file his reply to the show cause notice, since we are now setting aside the impugned order and are directing the respondents to pass a reasoned order afresh, we consider it appropriate to give the petitioner one more opportunity to submit his reply to the show cause notice. In case the petitioner submits his reply to the show cause notice within two weeks from today, the respondents shall consider the same and pass a fresh assessment order, in accordance with law, duly assigning reasons therefor within two months thereafter.

The amount paid by the petitioner, pursuant to the interim order passed by this Court earlier, shall remain in deposit till orders are passed afresh by the assessing authority. It is made clear that, in case the petitioner fails to submit his reply to the show cause notice within the time stipulated hereinabove, it is open to the assessing authority to proceed and pass a reasoned assessment order without giving the petitioner any further opportunity of being heard. The amount lying in deposit with the assessing authority shall be subject to the orders which he shall pass afresh within the aforesaid period of two months.

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, ACJ)

(A.SHANKAR NARAYANA, J)

22nd November 2016
JSU

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Petition No.17553 of 2008

Date: 22.11.2016

JSU