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

WRIT PETITION No.11431 of 2016

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

Heard Sri G.Narendra Chetty, learned counsel for the petitioner, and Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes, and with their consent, the writ petition is disposed of at the stage of admission.

The order under challenge in this writ petition is the assessment order dated 20.02.2006 for the tax period from March 2014 to October, 2015. The assessment order records that the Deputy Commissioner (CT) had issued a separate authorization to the audit officer to assess the dealer in case they detected any under declaration by the dealer as referred to in the authorization issued by the Deputy Commissioner on 18.12.2015.

In more or less similar circumstances, a Division Bench of this Court in **M/s. B.L.R.Dall Mill v. the Assistant Commissioner** (order in W.P.No.40687 of 2015 dated 18.12.2015), following an earlier judgment of the Division Bench in **M/s. Arihanth Automobiles, Adoni v. the Deputy Commercial Tax Officer-I, Adoni** (judgment in W.P.No.40638 of 2012 dated 04.02.2013), held that the authorization delegated the power to the

Assistant Commissioner to assess the petitioner to tax, if he detected any under declaration; and the Deputy Commissioner did not satisfy himself of the need for assessment, before authorizing the Assistant Commissioner to assess the petitioner to tax.

As a similar authorization was given in the present case, by the Deputy Commissioner to the Commercial Tax Officer (Audit), F.A.C, the impugned assessment order must be, and is accordingly, set aside. The Deputy Commissioner shall examine the audit report submitted by the audit officer and, after satisfying himself that an assessment should be made, issue a fresh authorization to assess the petitioner to tax. It is made clear that, as the territorial assessing authority has now been conferred power, under the amended Rule 59, to assess the dealer to tax even without authorization, this order shall not preclude the territorial assessing authority from passing an assessment order afresh.

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

RAMESH RANGANATHAN, J

SURESH KUMAR KAIT, J

13.04.2016

v v