THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION NO.26172 OF 2016

ORDER: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

Heard Sri P.Balaji Varma, 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 order under challenge in this Writ Petition is the assessment order, passed in Form VAT 305 dated 02.07.2016, whereby the petitioner's claim that the subject goods are taxable at 5% under Entry 38 and 121(6) of the IV Schedule was rejected, and the said goods were taxed at 14 ½ % treating them as falling within the ambit of the V Schedule to the APVAT Act.

Sri P.Balaji Varma, learned counsel for the petitioner, would submit that, though the petitioner had invited the attention of the assessing authority to the ruling of the Advanced Ruling authority dated 28.05.2014 in the case of M/s. Havells India Limited, neither did the assessing authority consider the said ruling nor did he assign any reasons for his conclusion that the subject goods do not fall within the ambit of Entry 38 and 121(6) of the IV Schedule to the Act.

While we were initially inclined to admit the Writ Petition and grant stay, Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, would fairly state that, instead of keeping the Writ Petition pending on the file of this Court, it would suffice if the impugned order is set aside, and the assessing authority is directed to pass a fresh assessment order within a specified timeframe.

In view of the submission of Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, the impugned order is set aside. The assessing authority shall, after giving an opportunity of personal hearing to the petitioner, pass a reasoned assessment order afresh in accordance with law. The entire exercise, culminating in a fresh reasoned order of assessment being passed, shall be completed within a period of two months from the date of receipt of a copy of this order.

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

(RAMESH RANGANATHAN, ACJ)

(U.DURGA PRASAD RAO, J)

8th September 2016
RRB