THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No.20544 of 2016

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

Heard Dr. S.R.R.Viswanath, learned counsel for the petitioner, and Sri J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes and, with their consent, the writ petition is disposed of at the stage of admission.

An additional affidavit is now filed by the petitioner stating that they had filed TCS certificates in Form 501 relating to the year 2012-13 for Rs.90,73,814/- before the date of the assessment i.e 19.03.2016; they had filed TCS certificates in Form 501 aggregating to Rs.36,02,081/- after 19.03.2016 i.e on 20.05.2016; they had filed TCS certificates in Form 501 for the year 2013-14, aggregating to Rs.1,36,36,284/-, before 19.03.2016; from out of these, Form 501 TCS certificates for Rs.1,00,46,547/- were properly uploaded for the year 2013-14 but Form 501 for Rs.35,89,737/- were erroneously uploaded for 2014-15; they have filed Form 501 relating to the year 2013-14 aggregating to Rs.62,01,837/- after 19.03.2016 i.e on 20.05.2016; and all the Form 501 TCS certificates, for both the years 2012-13 and 2013-14, have now been filed. It is further stated that, after all the Form 501 TCS certificates are taken into account, the petitioner has paid tax in excess of their liability by Rs.15,609/- for the year 2012-13, and excess of Rs.92,027/- for the year 2013-14.

While it does appear that certain Form 501 TCS certificates were filed after the assessment order was passed on 19.03.2016, it also does seem that the respondents had erroneously treated certain TCS certificates issued for the year 2013-14 as relating to the year 2014-15. In any event, these TCS certificates reflect tax having been collected at source by the Government, from the bills paid to the petitioner, for the works executed by them solely for the Government.

We consider it appropriate, in such circumstances, to set aside the impugned assessment order, and direct the respondents to pass an assessment order afresh after giving the petitioner an opportunity of a personal hearing. On the day so fixed for personal hearing, the petitioner shall furnish documentary evidence to show that tax has been collected at source by the Government, from the bills paid to them, to the satisfaction of the assessing authority. The entire exercise, culminating in a fresh assessment order being passed, shall be completed within two months from the date of receipt of a copy of this order.

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, J)

(M.SATYANARAYANA MURTHY, J)

11th July 2016
JSU

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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Date: 11.07.2016

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