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

Writ Petition No.18096 of 2016

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

The assessment order dated 02.05.2016, for the period January, 2013 to August, 2014, is under challenge in this writ petition for violation of principles of natural justice.

The petitioner was issued a notice under Rule 25 (5) of A.P. VAT Rules, 2005 on 17.11.2015 calling upon them to show-cause why they should not be assessed to tax and Rs.63,28,550/- not be disallowed as excess claim of input tax. The petitioner submitted their objections to the said show-cause notice by their letter dated 15.12.2015. Another notice was issued on 18.02.2016 informing the petitioner that they would be afforded an opportunity of personal hearing on 25.02.2016 at 11.30 a.m. The petitioner did not attend the personal hearing, but requested the assessing authority, by their letter dated 03.03.2016, to give them another opportunity of personal hearing. The 2nd respondent issued another notice on 18.04.2016 calling upon the petitioner to appear for personal hearing on 21.04.2016 at 11.30 a.m.

It is the petitioner's case that the said notice was dispatched by registered post with acknowledgement due on 19.04.2016, and a copy of the said notice was served on them on 21.04.2016 at about 02.00 p.m., and the time fixed for personal hearing had already expired by then. The petitioner sought another opportunity by their letter dated 07.05.2016 but, in the interregnum, the assessment order dated 02.05.2016 was passed.

As the notice of personal hearing dated 18.04.2016, fixing the time of personal hearing as 11.30 a.m. on 21.04.2016, was received by them only in the afternoon of 21.04.2016, the petitioner could not avail the opportunity of personal hearing. The assessment order passed on 02.05.2016, without giving the petitioner an opportunity of a personal hearing, is in violation of principles of natural justice. It must therefore be, and is accordingly, set aside.

With a view to avoid any further delay in this regard, we direct the 2nd respondent to afford the petitioner an opportunity of personal hearing on 21.06.2016 at 11.30 a.m. After affording the petitioner such an opportunity, the 2nd respondent shall pass an assessment order afresh and in accordance with law. It is made clear that, in case the petitioner does not avail the opportunity of personal hearing on 21.06.2016 at 11.30 a.m, it is open to the 2nd respondent to proceed, and pass an assessment order afresh in accordance with law.

The writ petition is disposed of accordingly. The miscellaneous petitions pending, if any, shall also stand closed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M. SATYANARAYANA MURTHY, J

Date: 14.06.2016

Note: Issue C.C. in two (2) days.
B/o
Ksp

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

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Writ Petition No.18096 of 2016

Order of the bench delivered by the

Hon’ble Sri Justice Ramesh Ranganathan)

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Date:14.06.2016

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