THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

-

<u>Writ Petition No.2925 of 2016</u>

-

<u>ORDER</u>: (per Hon'ble Sri Justice Ramesh Ranganathan)

The order of the Supreme Court in Civil Appeal No.4756 of 2007 dated 13.05.2015 required the petitioner herein to file their objections before the Commercial Tax Officer within one month and, if such objections were filed, the Commercial Tax Officer was required to consider the same without being influenced by the observations made in the writ petition by the High Court. The petitioner filed their objections on 08.06.2015. While issuing a personal hearing notice on 29.12.2015, the Commercial Tax Officer observed as under:

> *"Keeping in view the above omissions, reply filed by the dealer is hereby rejected in the interest of state exchequer and notice in question can't be questioned by mere argument of non jurisdiction and it can be sustained. If you have any objections as above, the dealer is hereby request to appear before the undersigned with written objections if any on 11.01.2016 at 11:00 A.M., failing which orders shall be passed without further notice."*

It is evident therefrom that the petitioner's reply was rejected. We find considerable force in the submission of Sri M.V.J.K.Kumar, learned counsel for the petitioner, that affording an opportunity of personal hearing thereafter on 11.01.2016 (which is now said to have been adjourned to 16.02.2016) serves no useful purpose, as the Commercial Tax Officer has already pre-determined the issue and has decided to reject the petitioner's objections.

While Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, would assure this Court that the Commercial Tax Officer would afford a personal hearing to the petitioner, and pass orders uninfluenced by any observations in the personal hearing notice referred to hereinabove, we are satisfied that the said notice reflects predetermination of the issue and, therefore, necessitates being set aside.

The impugned notice dated 29.12.2015 is set aside. This order shall, however, not preclude the respondents from issuing a notice of personal hearing afresh in accordance with law and thereafter pass a fresh order. Needless to state that the Commercial Tax Officer shall examine the matter afresh, uninfluenced by the observations made by him in the earlier personal hearing notice dated 29.12.2015.

The writ petition is disposed of accordingly. The 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

Date: 05.02.2016

JSU

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

Writ Petition No.2925 of 2016

-

-

-

Date: 05.02.2016

JSU