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

WRIT PETITION NO.20563 OF 2016

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

Heard Sri G.Narendra Chetty, learned counsel for the petitioner and Mr. 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 proceedings, under challenge in this Writ Petition, is the revisional order passed by the Deputy Commissioner (CT), Anantapuramu dated 02.05.2016 confirming the proposed revision, and levying tax of Rs.3,20,439/- after subjecting 70% of the turnover, relating to execution of works, to tax at 14.5%.

Sri G.Narendra Chetty, learned counsel for the petitioner, would submit that the petitioner executed works both as a sub-contractor and as a main contractor; insofar as the works executed by him as a sub-contractor is concerned, the main contractor had sought composition by filing Form VAT 250; for the works executed by him as the main contractor, the petitioner had also submitted Form VAT 250 on 08.02.2012 itself before commencement of the works; by the time the assessment order was passed, this form was not made available to the assessing authority; and, even though the period of limitation was due to expire only in April 2017, the revisional authority had passed the order on 02.05.2016 itself without giving the petitioner sufficient time to produce Form VAT 250.

On the other hand Mr. Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes, would submit that a show cause notice was issued on 09.12.2015, and the petitioner was afforded the opportunity of an adjournment on four occasions which he failed to avail.

On being asked whether the petitioner had, in fact, submitted Form VAT 250 on 08.02.2012, Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes, on instructions, would submit that, instead of keeping the Writ Petition pending on the file of this Court, it would suffice if this Court were to specify a timeframe for the petitioner to submit a copy of the Form VAT 250 allegedly submitted by him on 08.02.2012, leaving it open to the revisional authority to examine the genuineness of the said Form and pass an order afresh in accordance with law.

In view of the submission now made by the learned Special Standing Counsel, we consider it appropriate to set aside the impugned order. The petitioner shall, within ten (10) days from today, submit a copy of Form VAT 250 dated 08.02.2012 to the revisional authority along with additional objections, if any, which he may choose to file. The revisional authority shall fix a date for personal hearing and, after affording the petitioner such an opportunity, pass a revisional order afresh in accordance with law. The entire exercise, culminating in a fresh order being passed, shall be completed within two (2) months from today. It is made clear that failure on the part of the petitioner to submit Form VAT 250 within the time stipulated hereinabove, or to appear before the revisional authority on the date fixed for personal hearing, would enable the revisional authority to proceed and pass a fresh order on merits without giving the petitioner any further opportunity.

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, J

M.SATYANARAYANA MURTHY, J

29th June 2016

<u>Note:</u> Issue CC by Friday
B/O
RRB