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

WRIT PETITION No.22669 OF 2007

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

The proceedings, under challenge in this Writ Petition, is the assessment order passed in Rc.SA.6/54/2007(6) dated 31.03.2007. By the impugned proceedings, the petitioner was subjected to tax of Rs.1,11,100/- on the sale of coconut halves offered in the temple. The impugned proceeding records that a show cause notice dated 17.03.2007 was issued to the dealer inviting his objections; as he did not file his objections within time, it must be construed that he had not filed any written statement of objections; and, therefore, the turn-over proposed in the show cause notice was required to be confirmed.

While the petitioner alleges, in the affidavit filed in support of the writ petition, that a copy of the notice dated 17.03.2007 was only served on 24.04.2007, and the impugned proceedings are ante-dated, all that is stated in the counter affidavit is that the notice was, in fact, served on 24.03.2007. Even if the date of service of the notice is presumed to be 24.03.2007 the seven day period, prescribed to submit a reply, would have expired only on 01.04.2007, even before which the impugned order was passed on 31.03.2007. It does appear that the assessment order was passed on 31.03.2007, as it related to the year 2003-2004 and the assessment would have been barred by limitation after 31.03.2007. As the impugned order was passed in violation of principles of natural justice it must be, and is accordingly, set-aside.

The petitioner shall submit his reply to the show cause notice within three weeks from today. The respondent shall give the petitioner an opportunity of personal hearing, and thereafter pass an assessment order afresh in accordance with law. The entire exercise, culminating in an order being passed afresh, shall be completed within a period of three months from the date of receipt of a copy of this order. It is made clear that failure on the part of the petitioner to file his objections to the show cause notice within the aforesaid period of three weeks, or his failure to attend the personal hearing on the day fixed, would enable the respondent to proceed further; and pass an assessment order afresh in accordance with law.

The Writ petition is disposed of accordingly. No costs. Consequently, miscellaneous applications pending if any, shall stand closed.

RAMESH RANGANATHAN, J

M. SATYANARAYANA MURTHY, J

Date: 29.06.2016
SP

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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