THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

Writ Petition Nos.13066 &13130 of 2016

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

Heard Sri V.Bhaskar Reddy, learned counsel for the petitioner, and Sri M.Govind Reddy and Sri J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes, and, with their consent, the writ petitions are disposed of at the stage of admission. Denial of input tax credit under the impugned orders of assessment, and the penalty imposed pursuant thereto, are put in issue in these Writ Petitions mainly on the ground that the show cause notice makes a vague reference to the transactions not being genuine without even furnishing details thereof.

While Sri V.Bhaskar Reddy, learned counsel for the petitioner, would submit that the tax invoices produced by the petitioner related to goods purchased from registered VAT dealers, who had not only filed their returns but had also paid tax thereon, it is wholly unnecessary for us to examine these aspects, as we are satisfied that the show cause notice, preceding the impugned order of assessment, does not disclose the basis on which the assessing authority came to the conclusion that the transactions were not genuine.

Learned Special Standing Counsel for Commercial Taxes, on instructions, would fairly state that, instead of keeping the writ petitions pending on the file of this Court and granting stay, the impugned orders could be set aside, leaving it open to the assessing authority to issue a show cause notice afresh, and to take action thereafter in accordance with law.

Ends of justice would be met if the impugned orders of assessment and penalty are set aside, leaving it open to the assessment authority to issue a show cause notice afresh, provide the petitioner an opportunity of being heard, and thereafter pass an order of assessment afresh in accordance with law. It is made clear that this order shall also not preclude the respondents from initiating penalty proceedings, if need be, after an assessment order is passed afresh.

Both the writ petitions are 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

SURESH KUMAR KAIT, J

Date:26.04.2016
JSU

<u>THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN</u>

AND

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