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

WRIT PETITION NO.20621 OF 2016

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

Heard Sri Bhaskar Reddy Vemireddy, learned counsel for the petitioner and Sri J.Anil Kumar, 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 order passed by the Deputy Commissioner (CT) dated 20.05.2016 revising the assessment order passed by the assessing authority, and levying tax of Rs.2,14,89,032/- on the petitioner. The said proceedings is under challenge in this Writ Petition mainly on the ground of violation of principles of natural justice.

In the impugned order, the revisional authority held that the petitioner was found to have satisfactory evidence including filing applications opting for payment of tax by way of composition in Form VAT 250 from time to time, they were found eligible for tax under composition @ 4% and 5% for the respective periods, and they had also filed certificates issued and signed by the Chartered Accountant duly mentioning the turnover scored during the years 2010-11 and 2011-12 in the erstwhile State of Andhra Pradesh and Tamilnadu. Having so recorded, the revisional authority then proceeds to hold that the assessee had merely filed Form VAT 250 and had requested to adopt the rate of tax under composition, but they did not furnish details of the receipts contract wise to whom they related to, and they had also not filed copies of the bills, raised for the receipts, in order to verify the genuineness of their claim for being subjected to tax under composition. The revisional authority further observed that, in the absence of these details, their claim of composition could not be considered.

Sri V.Bhaskar Reddy, Learned counsel for the petitioner, would submit, not without justification, that it is only if the revisional authority had called upon the petitioner to furnish these details, could the petitioner have produced these documents; even without affording the petitioner such an opportunity, the revisional authority had rejected their claim; and the impugned order, passed by the revisional authority, was liable to be set aside on the ground of violation of principles of natural justice. He would rely on **Abad Overseas Private Limited, Visakhapatnam v. State of Andhra Pradesh & Others**[1] in this regard.

Sri J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes, on instructions, would fairly submit that, while the petitioner ought to have furnished these documents, the revisional authority could also have put them on notice calling upon them to produce these documents; and, instead of keeping the Writ Petition pending on the file of this Court, it would suffice if this Court were to treat the impugned order as a show cause notice, and permit the revisional authority to pass a fresh order within a specified timeframe. Sri Bhaskar Reddy Vemireddy, learned counsel for the petitioner, readily agrees for such an order being passed.

As counsel on either side are in agreement, we consider it appropriate to set aside the impugned order, to direct that the impugned order be treated as a show cause notice, and to permit the petitioner to file their objections thereto along with supporting documents if any, within two (2) weeks from today. The revisional authority shall, thereafter, fix a date for personal hearing and, after affording the petitioner such an opportunity, shall pass a fresh order of revision within three (3) 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 avail the opportunity of submitting their objections within the time stipulated hereinabove, or their failure to appear for personal hearing on the date so fixed by the revisional authority, would enable the revisional authority to proceed and pass a revisional order afresh on its merits.

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
RRB

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[1] **(2014) 59 APSTJ 76**