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

WRIT PETITION No.48 of 2016

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

Heard Sri A.V.A.Siva Karthikeya, learned counsel for the petitioner, and Sri Sk.Jeelani Basha, learned Special Standing Counsel for Commercial Tax, and, with their consent, the Writ Petition is being disposed of at the stage of admission.

The proceedings under challenge in this Writ Petition is the order levying penalty in Form-VAT-203 dated 30.11.2015 for the period 01.09.2012 to 29.04.2015. An assessment order was passed, for the period 01.09.2012 to 29.04.2015, in Form-VAT-305 dated 30.09.2015 levying tax. Aggrieved thereby petitioner carried the matter in appeal and the Appellate Deputy Commissioner, by his order dated 07.12.2015, remanded the matter to the assessing authority after setting aside the assessment order, and directed the assessing authority to pass an order afresh after examining the accounts and taking note of the submissions made by the appellant.

The assessing authority, however, passed an order of penalty on 30.11.2015 levying penalty at 200% of the tax due under Section 55 (3) of the Andhra Pradesh Value Added Tax Act, 2005 (for brevity, 'the Act'). However, in so far as the ITC component is concerned, penalty at 10% was imposed, under Section 53(1) of the Act, for a sum of Rs.1012/-. As the assessment order, except with regards ITC, has been set aside, the consequential penalty order must also be, and is accordingly, set aside except to the limited extent penalty was imposed on the disallowance of input tax credit of Rs.10123/- i.e. for a sum of Rs.1012/-. The petitioner shall, within two weeks from today, pay Rs.1012/- representing the penalty levied on the disallowance of input tax credit. It is made clear that this order shall not preclude the assessing authority, if need be, from initiating penalty proceedings, after an assessment order is passed afresh in accordance with law.

The Writ Petition stands disposed of accordingly. 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

05th January, 2016.
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