THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Petition No.22724 of 2008

ORDER: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

The proceedings under challenge in this writ petition is the order dated 30.07.2007 whereby the Deputy Commercial Tax Officer, Vidyanagar Circle, Hyderabad issued a garnishee notice to the Manager, UCO Bank, M.G.Road, Secunderabad under Section 29 of the A.P. Value Added Tax Act, 2005 (for short "the Act") for recovery of Rs.9,51,206/-.

The petitioner, by their letter dated 11.06.2007, informed the assessing authority that they had paid a sum of Rs.2,81,954/- for the period 2003-04 to 2006-07, and they were furnishing the names of teaching, non-teaching and sub-staff working in the college for the said period together with the particulars of the salary drawn, and the professional tax amount payable by each individual. Several statements, regarding the salary bills for each month and the professional tax payable, were also enclosed thereto. The petitioner has not stated, either in the reply to the show cause notice or even in the affidavit filed before this Court, the quantum of professional tax payable by them, and the amount which they had already paid in this regard.

While the petitioner cannot be absolved of blame in failing to furnish all the required particulars, as the onus is on them to establish that they are not liable to pay the tax due under the Act, it also appears that the assessing authority has not computed the professional tax liability in terms of the said statements, despite the information being furnished to them by the petitioner.

The professional tax liability for the period 01.04.2003 to 31.03.2007, as determined by the assessing authority, has already been recovered from the petitioner-college and as this sum is still available with the respondent-assessing authority, we consider it appropriate to give the petitioner one more opportunity to furnish all the required information to the assessing authority.

The order of assessment is set aside. The petitioner shall, at the earliest and in any event not later than four weeks from today, submit an additional affidavit giving all the required particulars to show their professional tax liability, and the amount which they have already paid in this regard. On receipt of the petitioner's additional affidavit, the assessing authority shall redo the assessment, pass a fresh assessment order, and communicate the same to the petitioner. The entire exercise, culminating in a fresh assessment order being passed, shall be completed at the earliest and, in any event, not later than three months from the date of receipt of a copy of this order. The amount already recovered from the petitioner shall remain with the assessing authority, and shall be subject to the outcome of the assessment order to be passed by him afresh.

The Writ Petition is, accordingly, disposed of. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(A.SHANKAR NARAYANA, J)

21st December, 2016
JSU

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

<u>Writ Petition No.22724 of 2008</u>

<u>Date: 21.12.2016</u>

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