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

WRIT PETITION No.19540 of 2016

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

The petitioner claims to be a sub-contractor for a contractor who executed works exclusively for Telangana Transco. It is their case that, by oversight, they furnished letter dated 16.03.2016 informing the assessing authority that they had no objection on the pre-assessment notice for the audit period 2013-14 and 2014-15, but they had received TDS certificate in Form 501B from M/s.PVR Constructions and were enclosing the same to the assessing authority. The assessing authority, on taking note of this letter dated 16.03.2016, assessed the petitioner to tax treating the deemed sale of goods as liable to tax under the residuary entry in the V Schedule to the A.P.Value Added Tax Act, 2005 (for short "the Act") @ 14.5%.

While Sri G.Narendra Chetty, learned counsel for the petitioner, would draw attention of this Court to the letter allegedly submitted by the petitioner on 05.03.2016, informing the assessing authority that the earlier letter submitted by them was by oversight, Sri J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes, would submit that this letter dated 05.03.2016 was not submitted to the Department at all; and it is only on the basis of the no objection conveyed by the assessee, in their letter dated 16.03.2016, that an assessment order was passed.

As the petitioner contended that all the works executed by them, as a sub-contractor and the main contractor, was exclusively for Telangana Transco, and as Entry 116 of the IV Schedule to the Act makes deemed sale of goods to AP/Telangana Transco liable to tax @ 5% and not @14.5%, we asked Sri J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes, to ascertain whether the assessing authority was willing to examine the documents submitted by the petitioner in support of their claim that the entire works were executed only in favour of AP/Telangana Transco.

Sri J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes, on instructions, would fairly state that the assessing authority would consider the documents placed by the assessee in support of their submission, and consider whether the petitioner is entitled to claim the benefit of Entry 116 of the IV Schedule to the Act.

In view of the submission now made by the learned Standing counsel, the impugned assessment order is set aside. The assessing authority shall, at the earliest and in any event not later than three months from the date of receipt of a copy of this order, pass an order afresh in accordance with law after affording the petitioner an opportunity of a personal hearing. It is open to the petitioner to submit all documents necessary to establish that the deemed sale of goods was exclusively to A.P/Telangana Transco falling within the ambit of Entry 116 of the IV Schedule to the Act.

The writ petition stands 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)

(M.SATYANARAYANA MURTHY, J)

04th July 2016
JSU

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

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WRIT PETITION No.19540 of 2016

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Date: 04.07.2016

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