THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLR SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.34729 OF 2015

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

Pursuant to a petition filed by the Revenue to vacate the interim order passed earlier, this Writ Petition is being heard and disposed of at the interlocutory stage with the consent of Sri T. Rajasekhar, Learned Counsel for the petitioner, and Sri J.V. Prasad, Learned Senior Standing Counsel appearing on behalf of the respondents. The petitioner has deposited 15% of the disputed tax, pursuant to the interim order passed by the Court earlier.

The order under challenge in this Writ Petition was passed by the Income Tax Officer on 08.06.2015 granting partial relief on the petitioner's application dated 20.05.2015 seeking stay of collection of penalty. By the order dated 08.06.2015, the petitioner was directed to pay 50% of the penalty immediately as directed by the Joint Commissioner of Income Tax (TDS), Visakhapatnam, for considering grant of stay for the balance 50% of the demand raised till the disposal of appeals. As the said order dated 08.06.2015 is bereft of reasons, we enquired from Sri J.V.Prasad, learned Senior Standing Counsel for Income Tax, as to how the said order could be sustained. Learned Senior Standing Counsel, on instructions, would fairly state that, as the said order is not a reasoned order, the assessing officer would pass an order afresh, under Section 220(6) of the Income Tax Act, in accordance with law.

The impugned order dated 08.06.2015 is, accordingly, set aside. The Income Tax Officer shall at the earliest, and in any event not later than four (4) weeks from the date of receipt of a copy of this order, pass an order afresh taking into consideration the contentions raised by the petitioner in their petition dated 20.05.2015.

The amount deposited by the petitioner, of 15% of the disputed tax, shall be subject to the orders which the Income Tax Officer shall pass within the aforesaid period of four weeks after giving an opportunity of personal hearing to the petitioner.

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)

25th January 2016
Note: Issue CC by two days
B/O
RRB