THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION NO.23547 OF 2016

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

Heard Sri S.Dwarakanath, 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 assessment order in Form VAT 305 dated 05.03.2016. As is evident from the recitals therein, a pre-assessment show cause notice was sent through registered post with acknowledgment due on 26.02.2016 (received by the assessee on 02.03.2016), granting them ten days' time to submit their reply. The impugned assessment order was passed on 05.03.2016 within three days of its receipt by the dealer, and a week prior to 12.03.2016, when the ten days' time stipulated in the show cause notice was to expire.

Sri J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes, would refer to the recital in an earlier paragraph of the very same assessment order, wherein notice is said to have been served on the dealer on 26.02.2016. The recitals in the assessment order are self-contradictory. While in one paragraph the assessing authority records that the show cause notice dated 23.02.2016 was issued and served on the dealer by registered post with acknowledgment due on 26.02.2016 asking him to file objections, against the said proposal, within ten days of receipt of the show cause notice, in a subsequent paragraph of the very same assessment order, the assessing authority states that the show cause notice, sent through registered post with acknowledgment due on 26.02.2016, was received by the dealer on 02.03.2016 but, even after lapse of time, they had not filed any reply to the proposals so far. These self-contradictory statements in the assessment order reflect non-application of mind.

In any view of the matter, be it for violation of principles of natural justice or on the ground of non-application of mind, the impugned assessment order must be, and is accordingly, set aside. The respondents shall, after giving the petitioner an opportunity of being heard and, if they so choose, a personal hearing also, pass an assessment order afresh in accordance with law at the earliest, in any event within four (4) months from the date of receipt of a copy of this order.

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

(RAMESH RANGANATHAN, J)

(U.DURGA PRASAD RAO, J)

19th July 2016
JSU