THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NOs.19461 AND 19472 OF 2016

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

Heard Sri Bhaskar Reddy Vemireddy, learned counsel for the petitioner and Sri J.AnilKumar, learned Special Standing Counsel for Commercial Taxes (Telangana) and, at their request, both the Writ Petitions are disposed of at the stage of admission.

The orders, whereby penalty was imposed on the petitioner under Section 53(3) of the Andhra Pradesh Value Added Tax Act, 2005 ("the Act" for brevity), are questioned in these two Writ petitions on the ground that the petitioner was not afforded the opportunity of a personal hearing; and the impugned orders of penalty are bereft of reasons.

The proviso to Section 53(3) of the Act requires the authority to give the person, on whom penalty is proposed to be imposed, a reasonable opportunity of being heard. The petitioner herein, in their reply to the show cause notice, sought for a personal hearing. Neither were they afforded an opportunity of a personal hearing nor were their objections to the show cause notice dealt with in the impugned orders. All that the first respondent has recorded, in the impugned orders, is that he had verified the contentions of the dealer, he had found that there was wilful mistake on their part, and it was done to evade payment of taxes. None of the contentions urged in the reply to the show cause notice, has even been referred to, much less considered and dealt with, in the impugned orders.

Sri J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes, on instructions, would submit that, instead of keeping the Writ Petitions pending on the file of this Court and granting stay, it would suffice if the matters were to be remanded to the first respondent to be considered afresh.

We consider it appropriate, in such circumstances, to set aside the impugned orders of penalty both on the ground that they are bereft of reasons and that the petitioner has been denied the opportunity of a personal hearing. The first respondent shall, after giving the petitioner an opportunity of a personal hearing, pass orders afresh in accordance with law at the earliest, and in any event not later than two months from the date of receipt of a copy of this order.

Both the Writ Petitions stand 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)

21st June 2016
RRB