THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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Writ Petition Nos.15495 and 15507 of 2016

COMMON ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

In these two writ petitions, the assessment order and the consequential order of penalty passed by the 1st respondent are subjected to challenge on the ground that the officer, who gave the petitioner an opportunity of a personal hearing, was not the officer who passed the assessment order.

In the affidavits filed in support of the writ petitions, it is stated that the show cause notice preceding the assessment was issued by, and the oral hearing pursuant thereto was before, Sri Prakash Rao, the Assistant Commissioner (CT) LTU, but the assessment order was passed subsequent to his transfer by Sri T.Seshadri, Assistant Commissioner who did not give the petitioner an opportunity of a personal hearing.

The very object of an oral hearing is to enable the assessee to put forth his objections to the show cause notice in person before the assessing authority and, consequently, it can only be the assessing authority, who heard the assessee orally, who could have passed the assessment order.

Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes, on instructions, would fairly state that, it is on account of the transfer of the earlier assessing authority, the subsequent authority passed the assessment and penalty orders and, instead of keeping both the writ petitions pending on the file of this Court, it would suffice if the assessment and penalty orders are set aside, the 1st respondent is directed to give the petitioner an opportunity of a personal hearing; and is, thereafter, permitted to pass assessment and penalty orders afresh in accordance with law.

Ends of justice would be met if the impugned assessment and penalty orders are set aside, and the 1st respondent is directed to give the petitioner an opportunity of a personal hearing; and, thereafter, to pass an assessment order 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. It is made clear that this order shall not preclude the respondents, if they so choose, from initiating penalty proceedings, if need be, after a fresh assessment order is passed.

Both the writ petitions are disposed of accordingly. Miscellaneous Petitions pending, if any, shall stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

07th June, 2016.
JSU

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Date: 07.06.2016

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