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

WRIT PETITION No.19026 of 2016

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

The proceedings under challenge in this writ petition is the assessment order passed by the 1st respondent in Form VAT 305 dated 21.04.2016 mainly on the ground of violation of principles of natural justice.

Sri M.V.J.K.Kumar, learned counsel for the petitioner, would submit that, while the show cause notice dated 26.03.2016 calling upon the petitioner to submit their reply thereto within seven days was sent by Registered Post only on 19.04.2016 at 10.22 a.m and the petitioner received a copy thereof only on 21.04.2016, the impugned order of assessment was passed on the same day i.e., 21.04.2016.

When the matter came up earlier, Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes (A.P.), sought time to obtain instructions. Today the learned Standing Counsel would submit that the petitioner's reply to the show cause notice was received by the respondents only on 28.04.2016. Even if we compute the period of seven days from 21.04.2016, the petitioner's reply to the show cause notice must be held to have been submitted within time. In any event the assessing authority, having passed an assessment order on 21.04.2016 itself, could not have considered the petitioner's reply to the show cause notice thereafter.

As the assessment order was passed within two days of despatch of the show cause notice by Registered Post on 19.04.2016, before expiry of the seven days stipulated in the show cause notice itself, the impugned assessment order is in violation of principles of natural justice. We consider it appropriate, therefore, to set aside the assessment order. As the petitioner has sought for a personal hearing, we consider it appropriate to dispose of the writ petition directing the 1st respondent to fix a date for personal hearing and, thereafter, pass a fresh order of assessment in accordance with law. It is made clear that, in case the petitioner fails to avail the opportunity of a personal hearing, it is open to the respondents to proceed and pass orders afresh in accordance with law.

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

Date: 27.06.2016
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