THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NOs.22172, 22324 AND 22333 OF 2016

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

Heard Ms. S.Pranathi, learned counsel for the petitioner, Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes (Andhra Pradesh) and Sri T.Vinod Kumar, learned Special Standing Counsel for Commercial Taxes (Telangana) and, with their consent, these three Writ Petitions are disposed of at the stage of admission.

The proceedings under challenge in these three Writ Petitions are the assessment orders dated 20.07.2015 passed under the CST Act for the assessment years 2011-12, 2012-13 and 2013-14. The petitioner, who carries on business of trading in coal and coke, was hitherto a dealer registered on the rolls of the fourth respondent. Even before bifurcation of the State, the assessee obtained registration afresh with the third respondent, and sought transfer of registration from the fourth respondent to the third respondent. Both the third and fourth respondents appear to have simultaneously initiated assessment proceedings for the very same periods. While the petitioner replied to the show cause notice issued by the fourth respondent, and produced evidence in support of their claim that the subject goods were exempt from tax under Section 5(2) of the CST Act, they claim to be unaware of the assessment proceedings initiated against them by the third respondent. The fourth respondent did not pass any assessment order. However, the third respondent passed the impugned orders of assessment which record that the show cause notice was served on the petitioner in reference fourth cited by way of affixture, though the said order contains only one reference, which is to the monthly returns filed by the dealer.

We called upon Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, to produce the records, and to inform us why the third respondent sought to serve the show cause notice by affixture, without resorting to the other modes of effecting service of notices as prescribed under Rule 64 of the Andhra Pradesh Value Added Tax Rules ("the Rules" for brevity). Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, produced the records before us today, and fairly stated that the records do not disclose the third respondent having attempted service of the show-cause notice by any of the other modes prescribed under Rule 64 of the Rules. It is evident, therefore, that the impugned order of assessment was passed without the petitioner being put on notice in terms of Rule 64 of the Rules, and it is in violation of principles of natural justice.

Sri T.Vinod Kumar, learned Special Standing Counsel for Commercial Taxes (Telangana), would submit that the records relating to the registration of the petitioner as a dealer, and the assessment records for the tax periods 2011-12 and 2012-13 have already been transmitted to the fourth respondent. Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes (Andhra Pradesh), on instructions, submits that the registration and the assessment records have been received by the fourth respondent from the third respondent and all the documents, which the petitioner had submitted to him, are now available with the fourth respondent.

With a view to ensure that there is no further delay in completion of the assessment proceedings, for the aforesaid three years 2011-12, 2012-13 and 2013-14, we consider it appropriate to set aside all the three impugned assessment orders passed under the CST Act for the said years, treat the impugned orders as a show cause notice, and permit the petitioner to submit their objections thereto within two (2) weeks from today. The third respondent shall, after giving the petitioner an opportunity of a personal hearing, pass assessment orders afresh taking into consideration their objections, the documents filed therewith, the documents filed earlier before the fourth respondent which have since been transmitted to the third respondent, and the documents submitted by the petitioners to the third respondent along with the application filed by them under Rule 60 of the Rules. The entire exercise, culminating in fresh assessment orders being passed, shall be completed within a period of four (4) months from the date of receipt of a copy of this order.

All the three Writ Petitions are allowed. As the impugned assessment orders are set aside, the subsequent orders passed under Rule 60 of the Rules are also set aside. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

14th July 2016
RRB