

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Writ Petition No.44272 of 2016

Order: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard Sri V. Bhasker Reddy, learned counsel for the petitioner, and Sri T.Vinod 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 demand of penal interest, in Form VAT 205 dated 28.10.2016, levying penal interest at 21.5% on the petitioner for Rs. 44,51,403/- towards belated payment of the deferment loan. While Sri V. Bhaskar Reddy, learned counsel for the petitioner, would contend that the petitioner had repaid the entire dues and, consequently, the respondents lack jurisdiction to levy penal interest, Sri T.Vinod Kumar, learned Special Standing Counsel for Commercial Taxes, would submit that the deferment loan facility was given to a private limited company; a partnership firm was constituted in the year 2008 to take over the assets of the private limited company; the partnership firm obtained a fresh registration; the conditions, of grant of deferment, require prior approval of the Industries Department for change of the management; as the petitioner failed to obtain prior approval from the Industries Department, the respondents were entitled to recover the entire tax dues in the year 2008 itself; and, as the petitioner repaid the deferred tax amount during the period 2011-2014, the respondents were justified in levying interest at 21.5% for belated payment from 2008 till the date of repayment.

When we asked Sri T.Vinod Kumar, learned Special Standing Counsel, whether the petitioner was put on notice before the impugned demand was raised, learned Special Standing Counsel would fairly state that the impugned order was not preceded by a show cause notice. We consider it wholly inappropriate, in such circumstances, to examine the

rival contentions on merits, as we are satisfied that the impugned order necessitates being set aside on the short ground of violation of principles of natural justice.

The impugned order is, accordingly, set aside. It is made clear that this order shall not preclude the respondents from putting the petitioner on notice, giving them an opportunity of being heard, and thereafter, if need be, to pass a fresh order in accordance with law.

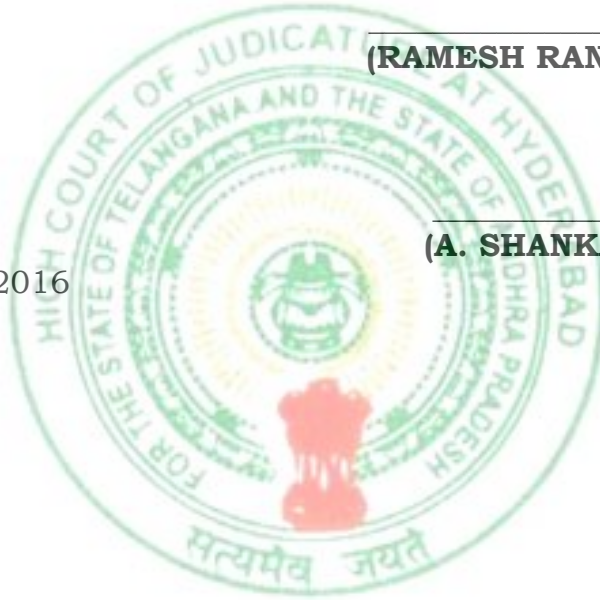
The writ petition stands disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(A. SHANKAR NARAYANA, J)

21st December, 2016

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Date: 21.12.2016

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