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

Writ Petition No.36198 of 2016

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

Heard Sri S. Krishnamurthy, learned counsel for the petitioner and Sri J. Anil Kumar, learned Special Standing Counsel for Commercial Taxes and, with their consent, the writ petition is disposed of at the stage of admission. The order impugned in this writ petition is the assessment order in Form VAT 305 dated 25.07.2016.

Facts, to the limited extent necessary, are that a show cause notice was issued to the petitioner in Form VAT 305A on 11.04.2016 to which the petitioner submitted their reply on 07.05.2016. Thereafter, the petitioner appears to have sought time again to furnish certain information and, as the information was not received, the assessment order came to be passed. The assessing authority is not obligated to wait endlessly for an assessee to submit the information sought for and, in the absence of such information being furnished within the stipulated time, it is open to the assessing authority to proceed and pass an order of assessment.

In the present case, however, the petitioner had put forth their objections, to the show cause notice, by their letter dated 07.05.2016 receipt of which has been acknowledged by the assessing authority. As he had received the petitioner's letter dated 07.05.2016, submitted in reply to the show cause notice, the assessing authority was obligated to consider the objections raised therein, and to pass a reasoned order in accordance with law.

While we were initially inclined to admit the writ petition and grant stay, Sri J. Anil Kumar, learned Special Standing Counsel for Commercial Taxes, would submit that, instead of keeping the writ petition pending on the file of this Court, it would suffice if the assessing authority is permitted to pass a fresh assessment order within a specified time frame. Sri S. Krishnamurhty, learned counsel for the petitioner, would seek permission to file additional objections to the show cause notice.

We consider it appropriate, in such circumstances, to dispose of the writ petition setting aside the order of assessment and permitting the petitioner to submit additional objections, to the show cause notice, within two weeks from today. The assessing authority shall consider the earlier objections, and the additional objections to be filed by the petitioner, and pass a fresh assessment order in accordance with law at the earliest and, in any event, within a period of three months from today. Needless to state that, in case the petitioner fails to submit their additional objections to the show cause notice within the time stipulated hereinabove, it is open to the assessing authority to proceed on the basis of their earlier reply to the show cause notice dated 07.05.2016, and pass a fresh assessment 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)

27th October 2016
JSU

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Petition No.36198 of 2016

Date: 27.10.2016

JSU