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

WRIT PETITION Nos.10968&10992 of 2002

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

The orders impugned in these writ petitions, are subjected to challenge mainly on the ground that the petitioner, a constituent of the A.P.Dairy Development Cooperative Federation Limited, has been denied sales tax exemption on the sale of cattle feed, despite the exemption granted under G.O.Ms.No.302 dated 20.03.1992. The proceedings in G.O.Ms.No.302 dated 20.03.1992 was subsequently clarified by the Government, in its Memo dated 16.11.2001, to the effect that exemption of sales tax, on the sale of cattle feed by the A.P. Dairy Development Cooperative Federation Limited, could be availed by all its constituents including the petitioner herein.

While the clarification, no doubt, was issued subsequent to the assessment order, both Sri M.V.J.K.Kumar, learned counsel for the petitioner, and Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, would agree that the clarification issued by the Government on 16.11.2011 would apply for the earlier assessment years also, as the petitioner has been held to be a constituent of the A.P.Dairy Development Cooperative Federation Limited. Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, would, however, contend that, in case the petitioner has collected tax on the sale of cattle feed, then they would not be entitled to retain the said amount on the ground of unjust enrichment.

We consider it appropriate, in such circumstances, to set aside the orders under challenge in these writ petitions, and remand the matter to the assessing authority directing him to extend the petitioner the benefit of G.O.Ms.No.302 dated 20.03.1992 in terms of the Government Memo dated 16.11.2001 after verifying whether the petitioner has collect sales tax, in the assessment years under consideration, on the sale of cattle feed. It is made clear that, in case the petitioner has collected tax, they shall then not be entitled to retain the said amount as it would amount to unjust enrichment.

The Writ Petitions are, accordingly, disposed of. The assessing authority shall pass orders afresh in accordance with law at the earliest, and in any event not later than three months from the date of receipt of a copy of this order.

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)

11th July 2016
JSU

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

-

-

-

-

-

WRIT PETITION Nos.10968&10992 of 2002

-

-

-

Date: 11.07.2016

JSU