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

Writ Petition No.18821 of 2016

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

Heard Dr. T.Ramesh Babu, 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 revisional order of the Deputy Commissioner dated 27.04.2016 denying input tax credit, claimed by the petitioner on the purchase of LPG, for Rs.22,14,311/-. On a revision show cause notice being issued by the Deputy Commissioner, the petitioner informed him that, since a similar issue was pending consideration before the High Court, the revision proceedings should be deferred. The matters, which were pending before the High Court, were remanded to the Telangana VAT Appellate Tribunal in T.A.No.341 of 2012 and batch. On the ground that a similar issue was pending consideration before the Tribunal, the revisional authority deferred revisional proceedings. The Tribunal, thereafter, disposed of the batch of appeals on 26.02.2016 holding that input tax credit could not be claimed for purchase of LPGs used in furnaces and boilers.

The petitioner's grievance, in this writ petition, is that of violation of principles of natural justice. Dr.T.Ramesh Babu, learned counsel for the petitioner, would submit that if, after disposal of the batch of cases by the Tribunal, the revisional authority had put the petitioner on notice, they could have satisfied him that, in terms of the judgment of the Tribunal, they were entitled to claim input tax credit.

While submitting that the petitioner was not entitled to claim the benefit of input tax credit in terms of the judgment of the Tribunal, Sri T.Vinod Kumar, learned Special Standing Counsel for Commercial Taxes, would fairly state that the revisional authority could not have straight away disposed of the revision, on the basis of the order of the Tribunal, without giving the dealer an opportunity of being heard.

We consider it appropriate, in such circumstances, to set aside the revisional order and direct the Deputy Commissioner (CT) to pass a revisional order afresh after giving the petitioner an opportunity to file their objections to the revisional show cause notice, and after affording them an opportunity of a personal hearing. In case, the petitioner submits their objections within ten days from today, the 1st respondent shall consider the same, fix a date for personal hearing, and thereafter pass a fresh revisional order in accordance with law. In case the petitioner fails to file their objections within the aforesaid stipulated period of ten days, it is open to the revisional authority to proceed and pass an order in accordance with law after giving them an opportunity of a personal hearing. In any event the entire exercise, culminating in a fresh order of assessment being passed, shall be completed within a period of one month from the date of receipt of a copy of this order.

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:15.06.2016
JSU

<u>THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN</u>

AND

<u>THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY</u>

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