THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

WRIT PETITION No. 9058 OF 2016

O R D E R : ***(per Hon'ble Sri Justice Ramesh Ranganathan)***

Heard Sri S. Ravi, learned Senior Counsel appearing on behalf of the petitioner and the learned Advocate General appearing on behalf of the State of Andhra Pradesh and with their consent, the Writ Petition is disposed of at the admission stage.

The proceedings under challenge in this Writ Petition is the assessment order passed by the 3rd respondent on 25.02.2016 under the provisions of the A.P. VAT Act, 2005 for the financial years 2012-13 and 2013-14. While the impugned order of assessment is assailed on several grounds, it would suffice to note the contentions urged by Sri S. Ravi, learned Senior Counsel appearing on behalf of the petitioner, on the question of lack of jurisdiction of the assessing authority to pass the impugned assessment order. Learned Senior Counsel would contend that, as the agreement was entered into outside the State of Andhra Pradesh which is evident from the stamp papers purchased in Bombay, the cause of action arose where the agreement was entered into i.e. in the State of Maharashtra; the entire work was executed beyond the territorial limits of the State of Andhra Pradesh and beyond 12 nautical miles from the East Coast; the jurisdiction conferred on the assessing authority to subject the petitioner to tax under the A.P. VAT Act is only on transfer of the right to use; perusal of the agreement would show that there was no transfer of the right to use any asset which belonged to the petitioner; and the equipment was put to use by the petitioner themselves only to carry out drilling operations.

After putting-forth his submissions for some time, the learned Advocate General appearing for the State of Andhra Pradesh would fairly state that the contentions urged by the petitioner, regarding lack of jurisdiction of the assessing authority, has not been dealt with in the impugned order of assessment and, instead of keeping the Writ Petition pending on the file of this Court, it would suffice if the assessment order is set aside, leaving it open to the assessing authority to pass an order afresh and in accordance with law. Sri S. Ravi, learned Senior Counsel appearing for the petitioner, would readily agree to such an order being passed, but would request that the petitioner be given an opportunity of a personal hearing.

In view of the statement made, on behalf of the respondents, by the learned Advocate General, it is wholly unnecessary for us to consider the submission urged on behalf of the petitioner on its merits or examine whether the assessing authority has the jurisdiction to pass the impugned assessment order. The impugned assessment order is set aside, leaving it open to the assessing authority to pass an assessment order afresh in accordance with law, after giving the petitioner an opportunity of a personal hearing. It is made clear that we have not expressed any opinion either on merits or on jurisdiction of the assessing authority to subject the petitioner to tax under the Act.

The Writ Petition is accordingly disposed of. Consequently, the miscellaneous applications, if any shall also stand disposed of. No costs.

RAMESH RANGANATHAN, J

SURESH KUMAR KAIT, J

19th April 2016

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