HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE MS. JUSTICE J. UMA DEVI

Writ Petition No.2905 of 2017

ORDER: (*per Hon'ble Sri Justice V. Ramasubramanian*)

The petitioner, whose challenge to a show cause notice was rejected by this court, by order dated 23.01.2017, has come up with the present writ petition, challenging the order of assessment passed on the next day, namely 24.01.2017.

2. Heard Mr. M.V.J. Murthy, learned counsel for the petitioner and Mr. Sri Vivek Reddy, learned Special counsel attached to the office of the learned Advocate General, for the respondents.

3. The petitioner came up with a writ petition in WP No.210 of 2017, challenging a show cause notice dated 08.12.2016. The challenge was rejected by this court by an order dated 23.01.2017, giving liberty to the petitioner to participate in the proceedings and directing the Assessing Officer to pass orders after giving sufficient opportunity.

4. But unfortunately, the respondents completed the assessment and passed the order on the very next day, namely, on 24.01.2017. Therefore, contending that the liberty granted by this court has been rendered nugatory, the petitioner has come up with the present writ petition.

5. In the order passed by this court on 23.01.2017 rejecting the challenge to the show cause notice, we have granted time to the petitioner to submit their objections and we have directed the Assessing Officer to consider the same, giving an opportunity of personal hearing

and then pass final orders. The said order could not become a paper order.

6. Therefore, the writ petition is liable to be allowed and the impugned assessment order is liable to be set aside.

7. Sri Vivek Reddy, learned special counsel, submitted that by virtue of the order granting time to the petitioner, the petitioner should not have the unintended benefit of raising the plea of limitation. But as rightly contended by Mr.M.V.J. Murthy, learned counsel for the petitioner, the proceedings now initiated are not the proceedings for assessment, but are the proceedings for recovery of luxury tax allegedly collected by the petitioner and the action is taken pursuant to the liberty granted by the Supreme Court to the petitioner in the contempt petition. Therefore, the question of limitation, as rightly contended by the learned counsel for the petitioner, would not arise.

8. Therefore, the writ petition is allowed and the impugned order is set aside. The Assessing Officer shall follow the directions contained in WP No.210 of 2017. No order as to costs. Pending miscellaneous petitions, if any, in this writ petition shall stand closed.

V.RAMASUBRAMANIAN, J

J. UMA DEVI, J

Date: 30.01.2017
Note: Furnish CC today
(BO)
BSS

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE MS. JUSTICE J. UMA DEVI

URGENT
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Writ Petition No.2905 of 2017
(*per Hon'ble Sri Justice V. Ramasubramanian)*

Date: 30.01.2017

BSS