HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SMT. JUSTICE T. RAJANI

WRIT PETITION No.21339 OF 2017

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

While the assessment order under challenge is dated 07.03.2014, and was passed more than three years ago, the petitioner claims to have filed an application, under Rule 60 of the A.P. VAT Rules, seeking rectification of the assessment order. The petitioner's case, in short, is that, though there is no turnover liable to tax under the CST Act, the petitioner had been subjected to tax even without putting them on notice, and without giving them an opportunity of being heard.

Sri Shaik Jeelani Basha, Learned Special Standing Counsel for Commercial Taxes, would submit that, while the assessment order does not reflect a show cause notice being issued earlier, the petitioner had also not questioned the assessment order for the past three years. The petitioner's claim is that there is no turnover liable to tax under the CST Act, and they had therefore filed an application, under Rule 60 of the AP VAT Rules, which is still pending before the assessing authority; and they had no other alternative except to invoke the jurisdiction of this Court as a demand notice has been issued for recovery of the said amount.

As the assessment order does not reflect a show cause notice being issued earlier, we were initially inclined to admit the Writ Petiton and grant stay. Sri Shaik Jeelani Basha, Learned Special Standing Counsel, would however submit that, instead of doing so, the assessment order itself may be treated as a show cause notice, the petitioner be given an opportunity to submit their reply thereto, and the assessing authority be permitted to pass a fresh order of assessment.

We consider it appropriate, in such circumstances, to set aside the assessment order dated 07.03.2014, and treat it as a show cause notice to which the petitioner shall submit their reply within two weeks from today. The Assessing Authority shall, after affording the petitioner a personal hearing, if they so choose, pass a fresh order of assessment within two months from the date of receipt of a copy of this order. Needless to state that, in case the petitioner does not file their objections within the aforesaid period of two weeks, it is open to the assessing authority to proceed and pass an assessment order in accordance with law.

The Writ Petition is disposed of accordingly. The miscellaneous petitions pending, if any, shall stand closed. No costs.

RAMESH RANGANATHAN, ACJ

T. RAJANI, J

Date: 11.07.2017.
MRKR