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

WRIT PETITION No.16576 of 2017

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

Heard Sri S. Ravi, learned Senior Counsel appearing on behalf of the petitioner, and Sri S. Suri Babu, learned Special Standing Counsel for Commercial Taxes. With their consent, this writ petition is disposed of at the stage of admission.

The proceeding under challenge in this writ petition is the assessment order in Rc.No.ACTO-II/206/Vig A.O.No.53963 (VAT-305) dated 22.02.2017 passed by the Commercial Tax Officer, Kavali levying tax of Rs.1,00,67,730/- on the petitioner, and directing him to make payment within thirty days. The third respondent, hitherto, issued a notice on 22.08.2016 calling upon the petitioner to show cause why he should not be subjected to tax of Rs.1,00,67,730/-, and to submit his reply thereto within one week. While the petitioner does not appear to have submitted his reply to the show cause notice, he claims to have paid tax under the A.P. Value Added Tax Act, 2005 with the second respondent, which resulted in the third respondent transferring the file to the second respondent. The second respondent appears to have, thereafter, informed the third respondent that the petitioner is an unregistered dealer, and is not registered on the rolls of even the second respondent; and he had paid certain amount towards tax. On the file being returned to him by the second respondent, the third respondent passed the impugned order without putting the petitioner again on notice, and without giving him an opportunity of being heard. Even if the petitioner is an unregistered dealer, tax can be levied on him under the A.P. VAT Act only after he is given an opportunity of being heard. The petitioner was neither informed that the file had been transferred from the second respondent to the third respondent, nor was he thereafter called upon by the third respondent to submit his reply to the earlier show cause notice dated 22.08.2016.

With a view to obviate any further delay in the matter, we consider it appropriate to set aside the impugned order of assessment in Rc.No.ACTO-II/206/Vig A.O.No.53963 (VAT-305) dated 22.02.2017, and permit the petitioner to submit his reply to the show cause notice dated 22.08.2016 within ten (10) days from today. On the petitioner submitting his reply to the show cause notice, and if he seeks an oral hearing, the third respondent shall afford him an opportunity of oral hearing, and pass an assessment order afresh with utmost expedition not later than two months from the date of receipt of a copy of this order. Needless to state that, in case the petitioner does not submit his reply to the show cause notice within the aforesaid period of ten (10) days, it is open to the third respondent to proceed and pass an assessment order afresh in accordance with law.

The writ petition is, accordingly, disposed of. Consequently, pending miscellaneous applications shall stand closed. There shall be no order as to costs.

____
RAMESH RANGANATHAN, HACJ

____
T. RAJANI, J

June 5, 2017
Note: Furnish C.C. by 06.06.2017/(B/o)DSK