HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE DR. JUSTICE SHAMEEM AKTHER

WRIT PETITION No. 41626 OF 2016

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

Sri M.V.J.K. Kumar, learned Senior Standing Counsel for Service Tax, on instructions, would submit that no coercive steps would be taken against the petitioners either regarding their being required to register themselves under the Finance Act, or for collection of service tax from them, till assessment proceedings are initiated, the petitioners are given an opportunity to show cause, and an assessment order is passed thereafter by the assessing authority.

Sri D. Prakash Reddy, learned Senior Counsel appearing on behalf of the petitioners, would submit, on instructions, that, while the petitioners are agreeable to the suggestion put-forth on behalf of the revenue, their interests should be safeguarded directing the assessing authority to pass the assessment order uninfluenced by the assertions in the counter affidavit filed by the Principal Commissioner of Customs, Excise and Service Tax, or the instructions issued by him in this regard, or even by the observations made in the proceedings of the Deputy Commissioner, Service Tax, Anti Evasion, Group-I dated 08.11.2016. Learned Senior Counsel would further submit that, with a view to enable the petitioners to question the assessment order, the respondents be directed not to take coercive steps either for their registration or for recovery of service tax till the assessment order is communicated to the petitioners, and for a period of three weeks thereafter. Sri M.V.J.K. Kumar, learned Standing Counsel is agreeable for such an order to be passed.

We consider it appropriate, therefore, to dispose of the writ petition directing the respondents not to take any coercive action against the petitioners either for their not registering themselves under Finance Act or for non-payment of service tax, till an assessment order is passed in accordance with law and for a period of three weeks after the said order is communicated to the petitioners. As the vires of several provisions are under challenge in this writ petition, suffice it if all the questions raised in the present writ petition are left open to be urged, if need be, in subsequent legal proceedings.

The writ petition stands disposed of accordingly.

Miscellaneous petitions, if any pending, shall also stand disposed of. No costs.

RAMESH RANGANATHAN, ACJ

Dr. SHAMEEM AKTHER, J

Date: 01.02.2017
ES/SIVA