The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice T.Amarnath Goud

WP.No.524 of 2018

Dt: 05-01-2018

Between:

M/s.Dhana Lakshmi Offset Printers Private Limited
Mallapur
Rep. by its Proprietor Mr.K.Murugappan

….Petitioner

and

The Commercial Tax Officer
Nacharam Circle, Saroor Nagar Division
Hyderabad and 4 others

….Respondents

Counsel for the Petitioner: **Mr.Bhaskar Reddy Vemireddy**

Counsel for the respondents: **Mr.J.Anil Kumar, Spl.SC for CT (TS)**

The Court made the following:

<u>Order:</u> **(per Hon'ble Sri Justice C.V.Nagarjuna Reddy)**

This Writ Petition is filed for a Mandamus to set aside Order bearing AAO No.37638, dated 18-11-2017, of respondent No.2, whereby he has imposed penalty on the tax assessed on the petitioner.

At the hearing, Mr.J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes (TS) appearing for the respondents, has fairly not disputed that this Court by its Order, dated 11-12-2017, in WP.No.41095 of 2017, has set aside the order of respondent No.3, whereby he has dismissed the appeal filed by the petitioner against the assessment order passed by respondent No.2, and remanded the matter to respondent No.3 for fresh consideration. He has also fairly conceded that the order impugned in this Writ Petition is consequential to the order impugned in the aforesaid Writ Petition, which, as noted herein before, was set aside.

Inasmuch as the validity or otherwise of the original assessment order is the subject matter of the Appeal, after remand, before respondent No.3, no penalty can be imposed on the petitioner till a fresh order in the said Appeal is passed by respondent No.3.

In this view of the matter, the impugned order is not sustainable and the same is, accordingly, set aside. It is further made clear that respondent No.2 shall be free to take a decision on the liability or otherwise of the petitioner to pay penalty subject to the outcome of the Appeal before respondent No.3.

The Writ Petition is, accordingly, allowed.

As a sequel, IA.No.1 of 2018, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(T.Amarnath Goud, J)

Date: 05-01-2018
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