THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Mr. JUSTICE M. GANGA RAO

Writ Petition No.1108 of 2018

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

Heard Sri Avinash Desai, learned counsel for the petitioner, and Sri J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes, and with their consent, the Writ Petition is disposed of at the stage of admission.

A Division Bench of this Court, by its order in W.P. No. 36587 of 2014 dated 2.12.2014, set aside the earlier assessment order, and directed the assessing authority to examine whether the mobile phones, sold by the dealer, fell within the ambit of 'transmission apparatus' under Entry 39 (15) of the IV Schedule to the Andhra Pradesh Value Added Tax Act, 2005 (hereinafter referred to as "the Act"). The petitioner was permitted to file additional objections within two weeks from the date of the order, and the assessing authority was directed to consider both the earlier objections filed by the petitioner and the additional objections, if any, filed by them; and, thereafter, pass an order afresh and in accordance with law. The petitioner filed their additional objections vide letter dated 16.12.2014 wherein, in paragraphs 14 to 17, they sought to justify their claim that a mobile phone is a 'transmission equipment' falling within the ambit of Entry 39 (15) of the IV Schedule to the Act.

Curiously, the assessing authority in the impugned revised assessment order dated 23.11.2017, while dealing with paragraphs 14 to 17, has summarily observed that there was no objection, and has stated that transmission apparatus is having a broad meaning which was not exclusively mobile phones.

It is evident, from a perusal of the order, that the objections raised by the petitioner have not been considered much less dealt with in the revised assessment order. On the short ground that the revised assessment order is bereft of reasons, it is set aside. Suffice it to make it clear that this order shall not disable the competent authority from passing an order afresh and in accordance with law, after dealing with the objections raised by the petitioner both in their original reply to the show cause notice, and the additional objections filed by them vide their letter dated 16.12.2014.

The Writ Petition stands disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(M. GANGA RAO, J)

18th January, 2018

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THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

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Date: 18.1.2018

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