HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.3828 of 2018

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

Heard Sri P. Girish Kumar, learned counsel appearing on behalf of the petitioner and Sri J. Anil Kumar, learned Special Standing Counsel for Commercial Tax (Telangana). With their consent, the Writ Petition is disposed of at the stage of admission.

The order under challenge in this Writ Petition is the revisional order passed by the Additional Commissioner (ST), in the Office of the Commissioner of State Tax, dated 31.10.2017, rejecting the petitioner's application to grant stay pending disposal of the appeal before the Telangana VAT Tribunal.

While the order impugned in the Writ Petition records the petitioner's contentions, none of these contentions were even dealt with *prima-facie.* In his order dated 31.10.2017, the Additional Commissioner (ST) held as under:

> "I have examined the impugned orders and the contentions of the appellant put forth in the grounds of appeal. I do not find any kind of valid reason in the grounds of the appellant-petitioner for stay of collection of disputed tax. Without going into the merits in the present case as the appeal is pending disposal before the Telangana Value Added Tax Appellate Tribunal, Hyderabad and the stay petition filed by the appellant are hereby rejected."

While Sri J. Anil Kumar would vehemently contend that the impugned order of the Additional Commissioner does not necessitate interference, and submit that the Additional Commissioner could not have expressed any opinion on merits since the substantive appeal is pending adjudication before the Sales Tax Appellate Tribunal, the statutory right conferred on the petitioner to have his application for grant of stay, pending disposal of the appeal before the Sales Tax Appellate Tribunal, considered by the Revisional Authority, would require the Additional Commissioner to examine the contentions urged by the petitioner, in the revision application, even if it be *prima-facie*.

The order impugned in the Writ Petition, and as extracted hereinabove, is bereft of reasons. On the short ground that the Additional Commissioner has not assigned reasons for rejecting the petitioner's application for grant of stay, the order, impugned in the Writ Petition, is set aside. The Additional Commissioner shall pass a reasoned order afresh, in accordance with law, with the utmost expedition and, in any event, not later than three weeks from the date of receipt of a copy of this order. Needless to state that the Revisional Authority shall afford the petitioner an opportunity of personal hearing before passing an order afresh.

The Writ Petition stands disposed of accordingly. No order as to costs. Pending miscellaneous petitions, if any, in this writ petition shall stand closed.

RAMESH RANGANATHAN, ACJ

KONGARA VIJAYA LAKSHMI, J

Date: 21.02.2018
BSS

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WP No.3828 of 2018
(per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Date: 21.02.2018

BSS