THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.6399 of 2018

ORDER: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

Heard Sri P.Balaji Varma, learned counsel for the petitioner, and Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes and, with their consent, the Writ Petition is disposed of at the stage of admission.

The petitioner claims to have submitted "C" forms before the assessing authority who, by a cryptic order dated 31.03.2017, bifurcated the inter-state sale of automobile spare parts as those covered by "C" forms and those not covered by "C" forms.

Sri P.Balaji Varma, learned counsel for the petitioner, would submit that the petitioner has furnished "C" forms for all the transactions covering the entire turnover; and, even without furnishing details of the break up of the "C" forms furnished by the petitioner and the basis on which the assessing authority came to the conclusion that the "C" forms submitted by the petitioner were not for the entire turnover, the impugned order of assessment came to be passed.

Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes, would submit that the assessment order dated 31.03.2017 is now sought to be questioned more than 10 months thereafter; the "C" forms furnished by the petitioner do not match the "C" forms reflected online; and they were, therefore, treated as bogus "C" forms, and an order was passed levying tax.

This contention urged before this Court, by Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes, is not reflected in the assessment order. The petitioner has also not been put on notice of this allegation. While it is no doubt true that the petitioner has invoked the jurisdiction of this Court, nearly 10 months after the impugned assessment order was passed, we see no reason to non-suit the petitioner on this ground, as it is *ex facie* evident, from the assessment order itself, that the said order is bereft of reasons.

We consider it appropriate, in such circumstances, to set aside the impugned order, and direct the assessing authority to consider the matter afresh and in accordance with law. The respondent - assessing authority shall issue a notice afresh, within two weeks from today, to the petitioner furnishing details on the basis of which he formed the opinion that the "C" forms, produced by the petitioner, are either bogus or tampered. The petitioner shall file their objections thereto within two weeks from the date of receipt of the show cause notice from the assessing authority. The assessing authority shall, thereafter, pass a reasoned order afresh, and in accordance with law, within four weeks from the date of receipt of the petitioner's reply to the show cause notice. It is made clear that, in case the petitioner fails to furnish their reply to the show cause notice within two weeks from the date on which they receive a copy of the show-cause notice, it would be open to the assessing authority to pass an assessment order afresh without granting the petitioner any further time to submit their reply.

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)

(KONGARA VIJAYA LAKSHMI, J)

14th March, 2018
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THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

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Writ Petition No.6399 of 2018

Date: 14.03.2018

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