THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION NO.32891 OF 2018

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

Heard Sri S.Dwarakanath, learned counsel for the petitioner and Sri T.Vinod Kumar, learned Special Standing Counsel for Commercial Taxes (Telangana) and, with their consent, the Writ Petition is disposed of at the stage of admission.

The assessment order passed by the first respondent dated 29.06.2018, for the tax period 2014-15 and 2015-16, is questioned in this Writ Petition as having been passed in violation of principles of natural justice. The petitioner seeks a consequential direction to permit them to file their objections to the show cause notice dated 15.06.2018; and for the assessing authority to pass an assessment order, thereafter, in accordance with law.

The petitioner's complaint in the Writ Petition is that, though the show cause notice dated 15.06.2018 was dispatched by the respondents only on 04.07.2018, the assessment order was passed prior thereto on 29.06.2018; and the petitioner was, thereby, denied an opportunity of filing their objections to the show cause notice. Sri T.Vinod Kumar, learned Special Standing Counsel for Commercial Taxes (Telangana), on instructions, would submit that the show cause notice was sent on 04.07.2018, since their earlier efforts to serve the show cause notice 'in person' failed.

The fact remains that the show cause notice was dispatched, by 'registered post with acknowledgment due', on 04.07.2018 after the assessment order dated 29.06.2018 was passed. As the petitioner has been denied a reasonable opportunity of filing their objections to the show cause notice, we consider it appropriate to set aside the assessment order for violation of principles of natural justice. The petitioner shall file their objections to the show cause notice within two (2) weeks from today; and the assessing authority shall pass a fresh assessment order, after giving the petitioner an opportunity of an oral hearing, within two (2) months from the date of petitioner's reply to the show cause notice. Needless to state that, in case the petitioner fails to avail the opportunity of submitting their objections, in reply to the show cause notice, within two (2) weeks from today, it is open to the assessing authority, thereafter, to proceed and pass an assessment order in accordance with law without awaiting the reply of the petitioner to the show cause notice.

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

(RAMESH RANGANATHAN, J)

(KONGARA VIJAYA LAKSHMI, J)

17th September 2018
RRB