

HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.33766 of 2018

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

Heard Sri Bhaskar Reddy Vemireddy, learned counsel for the petitioner and Sri T.Vinod Kumar, learned Special Standing Counsel for Commercial Tax (TG) and, with their consent, this Writ Petition is disposed of at the stage of admission. The proceedings under challenge in this Writ Petition is the order of penalty passed in Form VAT 203 dated 05.09.2018 as being illegal, arbitrary and in violation of principles of natural justice.

The show cause notice, in Form VAT 203-A, was issued on 23.08.2018 calling upon the petitioner to submit objections, if any, within seven days of the said notice. While Sri T. Vinod Kumar, learned Special Standing Counsel for Commercial Taxes, would submit that the said notice was sent by speed post on 25.09.2018, the fact remains that the said notice, as is evident from the track consignment sheet filed by the petitioner, was served on them only at 18.29 hours on 03.09.2018. As the one week period, to file a reply to the show cause notice, would commence only from the date of service of show cause notice on the petitioner, the petitioner had time till 10.09.2018 to submit their reply to the show cause notice. Even before the said one week period expired, the impugned order of penalty, in Form VAT 203, was passed on 05.09.2018. It is evident, therefore, that the petitioner was thereby denied a reasonable opportunity of being heard. On this short

ground alone, the impugned order of penalty must be, and is accordingly, set aside.

The petitioner is permitted to file their reply to the show cause notice within one week from today. In case a reply is filed, within the stipulated period, the 1st respondent shall, after giving them an opportunity of an oral hearing, pass a fresh order of penalty in accordance with law. Suffice it to make it clear that, in case the petitioner fails to avail the opportunity of submitting their reply to the show cause within the time stipulated above, it is open to the Assessing Authority to pass a fresh order of penalty without awaiting the petitioner's reply, to the show cause notice, thereafter.

The Writ Petition stands disposed of accordingly. No order as to costs. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

RAMESH RANGANATHAN, J

KONGARA VIJAYA LAKSHMI, J

Date: 19.08.2018

Note: Furnish CC by 20.09.2018

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Date: 19.08.2018

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