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

Writ Petition No.33926 of 2018

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

Heard Smt. M. Rajeswari, learned counsel for the petitioner and Sri S. Suri Babu, learned Special Standing counsel for Commercial Taxes (AP) and, with their consent, the Writ Petition is disposed of at the stage of admission.

In this Writ Petition, the action of the 2nd respondent in issuing the notice dated 12.07.2018, and the consequential proceedings of the 3rd respondent dated 18.07.2018, are questioned as being illegal, arbitrary and in violation of principles of natural justice.

The petitioner was, hitherto, assessed to tax for the tax period 2008-09 to 2012 (up to November, 2012). The 2nd respondent-Appellate Deputy Commissioner (CT) (FAC), Vijayawada, by his order dated 04.12.2014, set aside the assessment order and remanded the matter back to the Assessing Authority with a direction to pass appropriate orders. Pursuant thereto, the Assessing Authority passed the consequential order dated 30.04.2015. The order of the Commercial Tax Officer was subjected to revision by the Deputy Commissioner (CT) (FAC), Vijayawada.

Smt. M. Rajeswari, learned counsel for the petitioner, would submit that, since the consequential order passed by the Assessing Authority vide proceedings dated 30.04.2015 is merely an order giving effect to the order passed by the Appellate Deputy Commissioner, Vijayawada, the Deputy Commissioner, Commercial Tax, an Officer equivalent in rank to the Appellate Deputy Commissioner, is not entitled to revise the order of the Commercial Tax Officer dated 30.04.2015, as it is merely an order giving effect to the order passed by the Appellate Deputy Commissioner dated 04.12.2014.

Sri S. Suri Babu, learned Special Standing Counsel for Commercial Tax, would fairly state that the Deputy Commissioner (CT) lacks jurisdiction to revise the order passed by an Officer of equivalent rank (i.e., Appellate Deputy Commissioner). While the Deputy Commissioner (CT) sought to revise the order of the Commercial Tax Officer dated 30.04.2015, the said order of the Commercial Tax Officer is merely an order implementing the order of the Appellate Deputy Commissioner dated 04.12.2014.

Sri S. Suri Babu, Learned Standing Counsel, would however contend that, since the order passed by the Appellate Deputy Commissioner dated 04.12.2014 can be revised within a period of four years i.e. on or before 03.12.2018, liberty be granted to the respondents to initiate revision proceedings in accordance with law.

As it is not disputed before us that the Deputy Commissioner lacks jurisdiction to revise the order of the Appellate Deputy Commissioner dated 04.12.2014, the revisional order dated 12.07.2018 is set aside. The order passed by the Commercial Tax Officer, as a consequence thereof, dated 18.07.2018 is also set aside. Suffice it to make it clear that this order shall not disable the order of the Appellate Deputy Commissioner being revised in accordance with law.

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: 26.09.2018
BSS

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

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WP No.33926 of 2018
(per Hon'ble Sri Justice Ramesh Ranganathan)

Date: 26.09.2018

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