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

Writ Petition No.34484 of 2018

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

Heard Sri S.Dwarakanath, learned counsel for the petitioner and Sri M. Govind Reddy, learned Special Standing Counsel for the Commercial Taxes (TS). With their consent, the Writ Petition is disposed of at the stage of admission.

The proceeding under challenge in this Writ Petition is the assessment order passed in Form VAT 305 as illegal, arbitrary and in violation of principles of natural justice. Though several contentions are urged by Sri S.Dwarakanath, learned counsel for the petitioner, in challenge to the validity of the assessment order, it would suffice merely to take note of the contradictions in the assessment order itself. While examining the objections filed by the Dealer, the Assessing Authority made the following observations:

1. The dealer's contention that the Principal at Pune did not receive the E-mail from the office and hence the dealer could not submit the copy of appointment of the C&F agent is not tenable because the dealer submitted a copy of the C&F agency.
2. Further it is also observed from the office records that the dealer did not submit a copy of the C&F agency to the office;
3. Under the circumstances the dealer obtaining 'F' Forms from the portal without intimating the office about the appointment of C & F agency, amounts to misuse of the statutory forms which are to be used only for notified transactions after due intimation to the department;

> 4. The dealer's contention that the difference turnover as reported in the VAT 200 returns and that against 'F' Forms and such 'F' Forms were obtained at a later date is not supported by any documentary evidence. Hence the dealer's objection is not tenable."

It is evident from para 1 above that the petitioner had submitted a copy of the C&F Agency agreement. However, in para 2, the Assessing Authority contradicts what he stated in para-1 and holds that the dealer did not submit a copy of the C&F agency agreement to his office.

When we asked Sri M. Govind Reddy, learned Special Standing Counsel for the Commercial Taxes (Telangana) as to how such inherent contradictions in the assessing order could be justified, learned Standing Counsel, on instructions, would submit that the Commercial Tax Officer has since been transferred elsewhere and, instead of keeping the Writ Petition pending on the file of this Court, it would suffice to set aside the impugned order leaving it open to the assessing authority to pass a fresh assessment order in accordance with law.

While fairly agreeing for such order to be passed, Sri S.Dwarakanath, learned counsel for the petitioner, would seek an opportunity of personal hearing to be extended to the petitioner. We consider it appropriate, therefore, to set aside the impugned order and remand the matter to the assessing authority for its fresh consideration in accordance with law. The assessing authority, after affording the petitioner an opportunity of a personal hearing, shall pass a fresh assessment order in accordance with law, uninfluenced by the observations made in the earlier assessment order and in the order now passed in the Writ Petition.

The writ petition is, accordingly, disposed of. 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: 03.10.2018

BSS