THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION NO.34994 OF 2018

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

Heard Sri G.Narendra Chetty, learned counsel for the petitioner and Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, and, with their consent, the Writ Petition is disposed of at the stage of admission. The proceedings under challenge in this writ Petition is the assessment order passed in Form VAT 305 dated 26.07.2018, whereby the petitioner was called upon to pay tax of Rs.27,83,535/-. The said assessment order was passed after a notice of assessment of VAT was issued to the petitioner.

Earlier when the assessment order was passed on 18.10.2016, the petitioner filed W.P.No.42497 of 2016 and a Division Bench of this Court, while disposing of the Writ Petition by its order dated 01.02.2017, took note of the fact that, despite a show cause notice being issued to the petitioner, they had failed to produce evidence on the ground that, along with the Submersible Pumps, the books of accounts had also submerged in water. The Division Bench, however, thought it fit to give one final opportunity to the petitioner despite the fact that he did not seem deserving of the opportunity; and, accordingly, directed the petitioner to produce documentary evidence on 20.02.2017, and directed the assessing authority to pass a fresh assessment order. Consequent thereto, the present assessment order dated 26.07.2018 was passed.

The petitioner is aggrieved, by the said assessment order, to the limited extent the assessing authority had levied tax at 14.5% on three core cables, instead of at 5%, relying on the decision of the Advance Ruling Authority, in **M/s. Texmo Industries, Secunderabad** ARcom/440/2005 dated 18.11.2005.

While it is no doubt true that, in its Ruling dated 18.11.2005, the Advance Ruling Authority had held that tax on three core cables was to be levied at 12.5% (which rate of tax was subsequently revised to 14.5%), the fact remains that the said Ruling of the Advance Ruling Authority itself dated 18.11.2005 was subsequently revised by the Advance Ruling Authority in its proceedings in CCT's Ref.No.PMT/P&L/A.R.Com/2005 dated 20.03.2006; and, in terms of para-6 (2) (a) thereof, the rate of tax on three core flat cable wire used for submersible pump sets, irrespective of its end use, is 4% (now 5%).

Under Section 64 of the A.P. VAT Act, the order of the Advance Ruling Authority is binding on the assessing authority. Since the assessing authority had relied on the earlier Advanced Ruling dated 18.11.2005, and has not taken note of the revised Ruling passed on 20.03.2006, suffice it to set aside the assessment order to the limited extent that tax was levied on three core cable wire used for submersible pump sets at 14.5%. The assessing authority shall pass an assessment order afresh in terms of the Advanced Ruling Authority's clarification dated 20.03.2006, and in accordance with law, at the earliest and, in any event, not later than one month from the date of receipt of a copy of this order.

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)

4th October 2018

NOTE: Issue CC by one week
B/O
RRB