

HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON' BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.1938 of 2019

ORDER: (*per V. Ramasubramanian, J*)

1) Challenging the re-assessment proceedings passed under the Central Sales Tax Act, 1956, the borrower has come up with the above writ petition.

2) Heard Mr.Shaik Jeelani Basha, learned counsel for the petitioner and Mr.Govinda Reddy, learned Special Standing Counsel for the department.

3) The main ground of attack of the petitioner to the impugned order is that the 'C' declaration forms obtained from the dealers within the State were rejected by the impugned order, on the ground that they could not constitute interstate sales. But if the dealer issuing the 'C' declaration forms is actually obliged to supply materials in another State, the forms are liable to be accepted. Therefore, the Assessing Officer appears to have gone on a wrong understanding of the provision of law.

4) However, there is nothing to indicate in the impugned order whether the goods supplied by Bharat Heavy Electrical Limited, which issued 'C' declaration forms in the State of Andhra Pradesh, were supplied in the State of Karnataka. Since this matter has not

been examined, but re-assessment made on wrong understanding of the law, the impugned order deserves to be *set aside*.

5) Accordingly, the writ petition is allowed, the impugned order is *set aside* and the matter is remanded back to the first respondent for a fresh consideration. He shall take that the 'C' declaration forms issued within the State, in respect of the material supplied in other states are liable to be accepted, provided the facts are established on record. He shall re-consider the matter after giving an opportunity to the petitioner and pass orders afresh. As a sequel, miscellaneous petitions, if any, pending in the Writ Petition stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

Dr. SHAMEEM AKTHER, J

February 19, 2019
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WRIT PETITION No. 1938 of 2019

Date: 19.02.2019