

Court No. - 27

Case :- MISC. BENCH No. - 7116 of 2014

Petitioner :- Tax Lawyers Association Lko.Throu General Secy.& Anr.

Respondent :- State Of U.P.Thru.Prin.Secy.Tax & Registration
U.P.Lko.& Ors

Counsel for Petitioner :- Dhruv Mathur,Uphar Shukla

Counsel for Respondent :- C.S.C.

Hon'ble Devi Prasad Singh,J.

Hon'ble Arvind Kumar Tripathi (II),J.

Heard Sri Jaideep Narain Mathur, learned Senior Advocate assisted by Sri Uphar Shukla learned counsel for the petitioners and Sri H. P. Srivastava learned Standing Counsel for the State.

Petitioners are aggrieved by the provisions contained in Rule 73 read with Rule 79(2)(f) of the U.P. Value Added Tax Rules 2008 (for short VAT Rules) which permits outsiders to practice in the field of Law before the VAT Authorities under the VAT Act. Learned Senior Counsel invited our attention towards Section 33 of the Advocates Act 1961 which provides that only Advocates are entitled to practice before any Court or authority. Learned Senior Counsel further submits that impugned Rule is ultra vires to the Constitution in view of the provision contained in the Advocates Act 1961 since under the garb of the impugned Rule, outsiders have been permitted to appear before the authorities under the VAT Act to practice in the field of Law. Attention has been invited by learned Senior Counsel to certain leaflets which seem to be advertisement by certain persons who are not registered Advocates inviting assesses with regard to filing of return on payment of Rs.400/- and odd.

Submission is that under the garb of said Rule, persons who are not skilled lawyer or have no knowledge in the field of Law, are appearing before the authority under the VAT Act, are spoiling academic atmosphere of the profession.

Argument advanced by learned Senior Counsel, as well as pleadings on record, require consideration.

Accordingly, writ petition is admitted.

Learned Chief Standing Counsel has accepted notice on behalf of respondents. Let notice be issued to Advocate General of the State of U.P. and counter affidavit be filed within a period of three weeks. Rejoinder affidavit may be filed within one week thereafter. In case counter affidavit is not filed, the Court may proceed further and pass order in the matter keeping in view the arguments advanced by learned Senior Counsel.

List immediately after four weeks for peremptory hearing.

In the meantime, as an interim measure, we direct the respondents that no person whatsoever, may be permitted to advertise in the Newspaper or any leaflet, inviting assesses for the purpose of filing of return or arguing before the authority under the VAT Act. Any person, who is not a registered advocate, shall not be permitted to appear before the Authority under the VAT Act.

Order Date :- 6.8.2014

Subodh/-