

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

AND

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 24005 of 2015

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ORDER:- (per Hon'ble Sri Justice G. Chandraiah)

Questioning the order dated 08.07.2015 passed by the 1st respondent in Form VAT 305 in AO No.28325 for the period June 2014 to March, 2015, this petition is filed.

2. The case of the petitioner is that the 1st respondent passed the impugned order fastening VAT liability on the petitioner to the tune of Rs.13,45,125/- alleging that the petitioner has done chillies business without obtaining registration under the A.P.VAT Act. The petitioner states that he is not doing business in chilly sales, and that he did money lending business since June 2014 and his bank account transactions relate to his money lending business. The petitioner further states that the 1st respondent, based on the authorisation of the 2nd respondent dated 26.05.2015, conducted special audit at the residential premises of the petitioner during which the petitioner sought time till 29.05.2015 for production of account books and as the petitioner could not produce the books, a notice came to be issued on 30.05.2015 and as the petitioner did not respond to the said notice, the 1st respondent, under Section 21(5) of the Act, treated the entire bank transactions of the petitioner as those pertaining to chilli business and proposed to levy tax of Rs.13,45,125/-. Thereafter, a show cause notice dated 05.06.2015 was issued to the petitioner calling for written objections. On 09.06.2015, the petitioner sought time for 15 days. As no objections were filed by the petitioner, the 1st respondent confirmed

the proposed tax liability of Rs.13,45,125/-.

3. In the present case, the show cause notice was issued on 05.06.2015 whereas the authorisation of the 2nd respondent was dated 17.06.2015. In other words, as on the date of issuance of show cause notice, there was no authorisation of the 2nd respondent to enable the 1st respondent to take up the assessment proceedings.

4. In that view of the matter, the impugned order dated 08.07.2015 is set aside and the matter is remanded to the 1st respondent for fresh disposal, after giving opportunity to the petitioner to submit his objections, in accordance with law.

5. Accordingly, the writ petition is allowed. No costs. Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

G. CHANDRAIAH, J

CHALLA KODANDA RAM, J

10th August, 2015

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