**HON'BLE SRI JUSTICE R.SUBHASH REDDY**
**AND**
**HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO**

**WRIT PETITION No.979 of 2014**

**ORDER :** (per Hon'ble Sri Justice R.Subhash Reddy)

This writ petition is filed by the petitioner questioning the penalty proceedings dated 11.12.2013 issued by the 3rd respondent imposing penalty of Rs.91,43,520/- under the provisions of the A.P. Value Added Tax Act, 2005, as arbitrary and illegal.

2. It is submitted by the learned counsel for petitioner that as against the assessment order dated 27.9.2013, the petitioner carried the matter in appeal before the 3rd respondent-appellate Deputy Commercial Tax Officer-I and when the same was confirmed by the said appellate authority, the matter was further carried to this Court by way of a Writ Petition and this Court allowed the writ petition and remanded the matter to the appellate Deputy Commercial Tax Officer for passing orders afresh.

3. So far as the impugned penalty order dated 11.12.2013 is concerned, the said order is questioned mainly on the ground that it was passed in violation of the principles of natural justice and without proper service of notice and opportunity to the petitioner.

4. When the matter has come up for admission yesterday, it was adjourned to today to enable the learned Government Pleader for Commercial Taxes to get

instructions. Today, on instructions, it is submitted by the learned Government Pleader that the respondents have sent notice to the petitioner by registered post with acknowledgement due to the address of the petitioner available in the records, but as the petitioner is not continuing in the said premises, the respondents could not receive the acknowledgement card and hence, the respondents have served notice by affixing the same at the premises of the petitioner.

5. Heard learned counsel for the parties and perused the impugned order.

6. Even according to the case of the respondent, though notice is sent by registered post with acknowledgement due, the same was returned unserved. It is further submitted that the petitioner is not continuing in the address shown in the writ petition and further as the assessment order passed by the assessing authority is subject matter of appeal before the appellate Deputy Commercial Tax Officer, we are of the view that it is a fit case that the petitioner should be given an opportunity of hearing before passing orders imposing the penalty.

7. Accordingly, this writ petition is disposed of directing the respondents to treat the impugned order dated 11.12.2013 as a show cause notice and the petitioner is permitted to file objections to the said show cause notice within a period of two weeks from today. On filing such objections by the petitioner, the 3rd respondent-

appellate Deputy Commercial Tax Officer shall pass appropriate orders afreshm duly considering the objections filed by the petitioner. It is made clear that if objections are not filed by the petitioner within the stipulated period, it is open to the respondents to pass orders without waiting for the objections of the petitioner any further. The petitioner shall furnish its present and correct address along with the objections to the respondents for communication of notice and final orders. Failing to furnish the correct address, the address of the petitioner available on records shall be treated as its address for all purposes.

8. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

Dr. JUSTICE B.SIVA SANKARA RAO

03.03.2015.

Msr

HON'BLE SRI JUSTICE R.SUBHASH REDDY

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