

HON'BLE SRI JUSTICE R. SUBHASH REDDY

AND

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.1459 of 2015

-

ORDER: (Per Justice R. Subhash Reddy)

This Writ Petition is filed questioning the order dated 24.12.2014 passed by the 1st respondent-Appellate Deputy Commissioner under the provisions of the A.P. V.A.T. Act, 2005, imposing penalty on the petitioner for a sum of Rs.11,32,073/-.

2. Against the order of the primary authority, the matter was carried in appeal before the Appellate Deputy Commissioner (CT) Visakhapatnam in Appeal No.VSP/VAT/027/13-14. The appeal was heard on 29.04.2014 and the appellate authority passed order dated 24.12.2014, dismissing the appeal, confirming the penalty.

3. Heard learned counsel for the parties.

4. During the course of hearing, it is brought to our notice that, against the very assessment order, the petitioner herein preferred appeal before the Appellate Deputy Commissioner and on dismissal of such appeal, he approached this Court and filed W.P.No.28520 of 2014. A copy of the order dated 25.09.2014 passed in the aforesaid Writ Petition is placed on record. From a perusal of the said order, it is clear that this Court, on the ground that though written arguments were submitted on behalf of the petitioner-assessee on 24.01.2014, the appellate authority has passed the order four months thereafter, allowed the Writ Petition and remanded the matter for fresh consideration after considering written arguments submitted by the petitioner.

5. A perusal of the impugned order makes it clear that the same is passed, based on the order of the assessing authority. As the very

assessment order is set aside by this Court and the matter is remanded for fresh consideration and, further, as the impugned order is solely based on the assessment order, we deem it appropriate to set aside the impugned order.

6. The impugned order, dated 24.12.2014 passed by the 1st respondent-Appellate Deputy Commissioner, is hereby set aside and the matter is remitted for fresh consideration by the competent authority.

7. Writ Petition is allowed with the directions as indicated above. No order as to costs. As a sequel, miscellaneous petitions if any pending in the Writ Petition stand closed.

R. SUBHASH REDDY, J

Dr. B. SIVA SANKARA RAO, J

January 29, 2015

ksh/MRR