THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLR SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.26399 OF 2015

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

Heard Sri S.Dwarakanath, learned counsel for the petitioner and Sri M.Govind Reddy, learned Special Standing Counsel for Commercial Taxes. At their request, the Writ Petition is disposed of at the stage of admission.

Against the assessment order passed by the assessing authority, the petitioner preferred an appeal to the Appellate Deputy Commissioner who remanded the matter to the assessing authority. The order of assessment is dated 14.03.2011 and the order of the appellate authority is dated 29.07.2011. The revisional authority issued a show cause notice on 14.05.2015 to revise the order passed by the Appellate Deputy Commissioner. While the show cause notice dated 14.05.2015 was issued within four years from the order of the Appellate Deputy Commissioner dated 29.07.2011, it is beyond the four-year period of limitation prescribed under Section 32(3) of the A.P. VAT Act in so far as the assessment order is concerned.

The submission of Sri S.Dwarakanath, learned counsel for the petitioner, is that, in the guise of revising the order passed by the Appellate Deputy Commissioner, the revisional authority revised the assessment order also, though he lacked jurisdiction to do so, as exercise of the revisional powers, to revise the assessment order, is barred by limitation. Learned counsel would draw our attention to the objections filed by the assessee, before the revisional authority, in this regard.

The order passed by the revisional authority records the submission of the assessee that, if the proposal in the show cause notice is essentially to revise the assessment order passed by the Commercial Taxes Officer himself, it should have been done four years from the date of service of the assessment order; as the assessment order dated 14.03.2011 was served on 22.03.2011, and the time of revision expired on 22.03.2015, the show cause notice issued on 14.05.2015 is barred by limitation under Section 32(3) of the A.P. VAT Act.

This contention, urged on behalf of the assessee, has been noted by the revisional authority, but has not been dealt with in the impugned order. As the revisional authority was required in law to consider this objection, which relates to his jurisdiction to revise the assessment order, and he has failed to do so, the impugned order passed by the revisional authority dated 27.07.2015 is set aside, and the matter is remanded for his consideration afresh and in accordance with law. The revisional authority shall give the petitioner an opportunity of being heard and, thereafter, pass an order afresh, and in accordance with law at the earliest. The order of the revisional authority dated 27.07.2015 is set aside. The consequential order passed by the Commissioner, Commercial Tax Officer dated 29.07.2011 is also set aside.

The Writ Petition is disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

9th November 2015

RRB