IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

MONDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FIFTEEN

PRESENT

THE HONOURABLE SRI JUSTICE G.CHANDRAIAH
AND
THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

W.P. No.19191 of 2015

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Between:

M/s.Tulasi Surgicals

… Petitioner

And

Commercial Tax Officer,
Kothapet Circle,
Guntur and others.

… Respondents

THE HONOURABLE SRI JUSTICE G.CHANDRAIAH
AND
THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

W.P. No.19191 of 2015

ORDER: (Per the Hon'ble Sri CKR, J)

Assessment order dated 23.05.2013 is challenged principally on the ground that the Assessing Officer did not have the proper authorisation to pass the impugned order as is required under the provisions of the Andhra Pradesh Value Added Tax Act, 2005 and Rules therein.

The learned counsel relies on the circulars issued by the Commissioner of Commercial Taxes dated 27.08.2012 and 05.11.2012. In terms of the above circulars, the concerned Deputy Commissioners / Additional Commissioners/Joint Commissioners Enforcement are authorised to issue assessment authorisation in Form ADM-1C with unique number through VATIS only. In other words, authorisation with unique number is a computer generated one and prescribed procedure has been made available to avoid arbitrary exercise of power and arbitrarily conducting assessment/re-assessment/audits. This aspect of the matter has not been disputed before us.

The learned counsel for the respondent produced a copy of the authorisation stated to have been given in favour of the Assessing Officer/Deputy Commissioner, (CT), Narasaraopet Division at Guntur.

The said authorisation does not contain the unique number, which is held to be mandatory by the Circulars dated 27.08.2012 and 05.11.2012. The authorisation, which has been produced before us, is a manually generated authorisation. In this context, it is necessary to notice Circular dated 05.11.2012 wherein it is categorically stated that

"*Any authorisation (ADM-1C) issued outside VATIS or without unique number shall not be a valid authorisation for Assessment.*" Further, this aspect is further clarified by the Circular dated 27.08.2012 wherein the Commissioner had stated that *"Effective from 1.9.2012, all the Deputy Commissioners concerned and Additional Commissioner/Joint Commissioner, Enforcement shall issue "Audit authorisations" in Form ADM-1B with Unique No.through VATIS only. Any authorisation (ADM 1B) issued outside VATIS or without unique No.shall not be a valid authorisation for audit/assessment. Any officer conducting audit/assessment without valid authorisation shall be liable for disciplinary action."* Further reading of the Circular leaves no manner of doubt that the effort of the higher authorities is to create definite system generated methodology to avoid the allegations of the arbitrariness.

In that view of the matter, there being admitted violation of the procedure prescribed by the authorities themselves, the assessment order passed is set aside. However, liberty is given to the respondents to initiate proceedings, in accordance with law, to bring to the book the escaped turnover.

Accordingly, this writ petition is allowed. As a sequel, miscellaneous petitions, if any, are stands closed. There shall be no order as to costs.

JUSTICE G.CHANDRAIAH

JUSTICE CHALLA KODANDA RAM

Date: 13.07.2015

Note: Issue CC in two days.
B/o.
LSK