THE HON'BLE SRI JUSTICE G.CHANDRAIAH
AND
THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P.NO.31274 OF 2015

O R D E R (Per GC,J)

Heard the learned counsel for the petitioner and the learned Government Pleader for Commercial Taxes.

2. The petitioner – assessee is engaged in the business of purchase and sale of cigarettes and other items. The Regional Vigilance and Enforcement Officer, Ananthapuram, inspected the business of the petitioner and submitted material to the Deputy Commercial Tax Officer for realizing the evaded tax. The Deputy Commercial Tax Officer initiated proceedings under Sections 21(5) and 53 of the Andhra Pradesh Value Added Tax Act, 2005 and issued show cause notices dated 21.2.2012 and 25.2.2013 and eventually passed the impugned proceedings in AAO.No.20025 (Rc.No.22/2011, dated 4.1.2012 and 31.3.2015), imposing tax of Rs.8,71,261-00. Hence, the writ petition.

3. The grievance of the petitioner is that the impugned assessment – cum – penalty proceedings were issued by the 1st respondent – Deputy Commercial Tax Officer on the grounds which were not mentioned in the show cause notice and also without furnishing the copies of the material relied on for passing the impugned order. Therefore, on the ground of violation of principles of natural justice, the impugned proceeding is sought to be set aside.

4. The learned counsel for the petitioner and the learned Government Pleader submitted that this court considering similar facts and circumstances in W.P.Nos.20787 and 20796 of 2015 dated 20.7.2015 disposed of the writ petition by directing the authorities to make reassessment after furnishing the necessary details to the dealer. The relevant portion of the order is as under:

> "Today, the record has been produced and after perusing the record, learned Government Pleader fairly submits that the record does not disclose the material particulars sought by the petitioner having not been furnished to the petitioners. Learned Government Pleader submits that the assessment orders may be set aside by giving liberty to the authorities to make re-assessment after furnishing the necessary details to the dealer. The stand taken by the learned Government Pleader is reasonable and we appreciate the frankness with which he made submissions.

> In the facts of the present case and in the circumstances the assessment order is set aside. However, considering the fact that we are setting aside the assessment orders, we deem it appropriate to direct the respondent authorities to furnish the details to the petitioners within a period of four (4) weeks from today and complete the assessment proceedings within a period of three (3) months thereafter. It is needless to mention that the petitioners shall be entitled to raise all the objections both on facts and law."

5. In view of the above facts and circumstances, the impugned order is set aside and the writ petition is disposed of in terms of the above order dated 20.7.2015 in WP.Nos.20787 and 20796 of 2015. No costs.

6. Miscellaneous petitions pending if any shall stand closed.

G.CHANDRAIAH,J

CHALL KODANDA RAM,J

DATE:26—10—2015

AVS