THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

AND

THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

<u>WRIT PETITION Nos.11643 AND 11938 OF 2015</u>

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<u>COMMON ORDER</u>: (Per Hon'ble Sri Justice R. Subhash Reddy)

In these Writ Petitions, the petitioner, who is an assessee and is a registered dealer under the provisions of Andhra Pradesh Value Added Tax Act, 2005, has questioned the assessment order, dated 13.11.2014, and the penalty order, dated 26.03.2015, passed by the Commercial Tax Officer, Dharmavaram Circle, Anantapur – respondent No.1.

One of the grounds raised in these Writ Petitions is that the show-cause notice was issued on 18.10.2014 and the authorization was obtained on 12.11.2014 and as such, on the date of initiation of proceedings by issuing show-cause notice, the 1st respondent had no authorization from competent jurisdictional officer to proceed with the assessment.

Learned Special Standing Counsel for Commercial Taxes appearing for the respondents, does not dispute the same.

A Division Bench of this Court in the case of **<u>Balaji Flour Mills, Chittoor v. Commercial Tax Officer II, Chittoor</u>,** has held that after issuing authorisation for conducting audit, a separate authorisation is to be given for the purpose of assessing the dealer and the assessing authority shall be authorised even before issuing show-cause notice.

In view of the aforesaid judgment of this Court, the impugned orders are liable to be set aside.

Accordingly, the impugned orders, dated 13.11.2014 and 26.03.2015, are set aside. However, it is left open to the respondent authorities to initiate fresh proceedings and pass appropriate orders in accordance with law.

Subject to the above, the Writ Petitions are allowed. Miscellaneous Petitions, if any, pending in these Writ Petitions shall stand closed. No costs.

R. SUBHASH REDDY, J

Dr. B. SIVA SANKARA RAO, J

April 28, 2015

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