THE HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

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WRIT PETITION No.14027 OF 2014

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ORDER: (Per Hon'ble Sri Justice R. Subhash Reddy)

This Writ Petition is filed questioning the validity of the order, dated 29.03.2014, passed in A.O. Order No.31486 by the Commercial Tax Officer, Sanathnagar Circle, Punjagutta Division, Hyderabad – respondent No.3.

2. The petitioner is a Public Limited Company and is a registered dealer under the provisions of Andhra Pradesh Value Added Tax Act, 2005 (for short, 'AP VAT Act') on the rolls of respondent No.3. Pursuant to the audit conducted for the tax period December, 2009 – March, 2010, notice, dated 21.03.2014, was issued to recover the tax due at Rs.1,49,75,996/- and permitted the petitioner to file written objections, within seven days from the date of receipt of said notice. As no written objections were filed within the time stipulated, impugned order, dated 29.03.2014, was passed assessing the total tax due at Rs.1,20,00,992/-.

3. In the impugned order itself, it is indicated that against such order, an appeal lies to the Appellate Deputy Commissioner (Commercial Taxes). It is also clear from

the provision under Section 31 of the AP VAT Act, that against the order of the assessing authority, appeal lies to the Appellate Deputy Commissioner. The only ground urged by the learned counsel for petitioner for bypassing such remedy of appeal, is that pursuant to the notice issued by the assessing authority, one Mr. Sudhakar, representing the petitioner – Company, has appeared in-person and requested to grant time and in spite of the same, the impugned order was passed.

4. From a perusal of the impugned order, it is clear that after issuance of notice, dated 21.03.2014, the petitioner has not responded to the same by filing objections within the time granted and on 29.03.2014, representing the petitioner, one Mr. Sudhakar appeared in-person and submitted purchase invoices for the purchases effected during the year 2009 – 10 from the dealers, within the State of Andhra Pradesh and from outside the State, but he has not filed any written objections pursuant to the notice, dated 21.03.2014.

5. During the course of hearing, learned counsel for the petitioner has brought to our notice letter, dated 25.09.2010, issued by the Deputy Commercial Tax Officer, Srinagar Colony Circle, Hyderabad, wherein it is stated that, on verification of the books of accounts of the petitioner for the period from December, 2009 to March, 2010 and from April, 2010 to August, 2010, no variations

are noticed.

6. As much as the aforesaid material is available with the petitioner, petitioner can as well produce the same before the Appellate Deputy Commissioner by availing statutory remedy of appeal, but the grounds urged before this Court are not the grounds to entertain this Writ Petition, bypassing the remedy of statutory appeal before the Appellate Deputy Commissioner. On the sole ground of availability of alternative remedy to the petitioner, Writ Petition is dismissed granting liberty to the petitioner to avail statutory remedies under law.

7. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. No costs.

R.SUBHASH REDDY, J

Dr. B. SIVA SANKARA RAO, J

22nd January, 2015

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