**HON'BLE SRI JUSTICE R.SUBHASH REDDY**

**AND**

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

**WRIT PETITION No.12679 of 2015**

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

The petitioner has filed this writ petition questioning the proceedings GRN: VSP/05/0/1615, dated 27.2.2015 issued by the 1st respondent-Deputy Commercial Tax Officer, Anakapalli, Visakhapatnam District.

2. The petitioner is a registered dealer engaged in the business of furniture and coir-beds in Anakapalli, and is an assessee on the rolls of the 2nd respondent-Commercial Tax Officer, Anakapalli Circle, Visakhapatnam District. The 3rd respondent-Deputy Commissioner (CT), Visakhapatnam Division, has authorized the 1st respondent to conduct audit vide proceedings dated 20.3.2014 and the audit is covered for the period upto 31.12.2013. Based on the audit report, further assessment proceedings were initiated and after giving an opportunity of hearing, the impugned order dated 27.2.2015 is passed determining the balance tax payable by the petitioner at Rs.4,78,077/- upto 30.09.2014.

3. It is the main contention of the learned counsel for petitioner that the audit was conducted only for the period upto 31.12.2013, but the assessment orders were passed for the period till 30.09.2014, which is beyond the period of audit. The learned counsel would further contend that pursuant to the show cause notice dated 27.1.2015, the petitioner has filed its objections and requested for return of books of accounts. But, without considering the same, the impugned order is passed.

4. On instructions, the learned Standing Counsel for Commercial Taxes submits that though the assessment order is passed determining the tax payable by the petitioner for the period till 30.09.2014, the audit was conducted by restricting the period upto 31.12.2013.

5. It is fairly well settled that unless audit is conducted, no steps shall be taken for determining the tax payable by the dealer. Further, as it is the case of the petitioner that its request for return of books of accounts was not considered and further it is clear from the impugned order itself that the tax liability of the petitioner was determined for the period till 30.09.2014, which is beyond the period of audit, we deem that it is a fit case for reconsideration by the assessing authority by giving an opportunity of hearing to the petitioner.

6. For the aforesaid reasons, the impugned order dated 27.2.2015 is set aside and the matter is remanded to the Deputy Commissioner (CT), Visakhapatnam Division, to consider the matter afresh and pass appropriate orders in accordance with law, within a period of two weeks from today, after giving an opportunity of hearing and also after considering the objections and request of the petitioner for return of books of accounts.

7. Subject to the above directions, the Writ Petition is disposed of. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

Dr. JUSTICE B.SIVA SANKARA RAO

01.05.2015.

NOTE: Issue C.C. in one week.

(B/O)

Msr

HON'BLE SRI JUSTICE R.SUBHASH REDDY

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HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

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