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

WRIT PETITION No.15106 of 2014

ORDER : (Per Justice R. Subhash Reddy)

In this writ petition, the petitioner has questioned the order of assessment dated 29.03.2014, passed by the respondent in Proceedings A.O.No.31550 under the provisions of the A.P. Value Added Tax Act, 2005.

2. The petitioner is a successful bidder for sand quarry in the sand reach of Vibharitalapadu of Chandarlapadu Mandal in Krishna District. He is also a registered dealer on the rolls of Commercial Tax Officer, Nandigama circle. Based on the reports furnished by the Regional Vigilance and Enforcement Officer, Vijayawada, impugned order is passed in Form-VAT 305 by the respondent, assessing the tax payable by the petitioner at Rs.59,25,957/-, alleging that the petitioner has not reported the actual sale turnover to the Sales Tax Department for 2007-08.

3. The impugned order is questioned on several grounds including on the ground that the material relied on by the assessing officer, namely, the reports furnished by the Regional Vigilance and Enforcement Officer, Vijayawada are not furnished to him, and thus, the impugned order of assessment is passed in violation of the principles of natural justice. In support of his

contention, learned counsel for petitioner has placed reliance on a judgment of this Court in the case of **Sri Uma Maheshwara Rice and Flour Mill, Vetlapalem & others Vs. Commercial Tax Officer, Peddapuram & others**[1].

4. Though counter affidavit is not filed, on instructions, it is submitted by the learned Government Pleader appearing for respondent that the impugned assessment order is based on the reports furnished by the Regional Vigilance and Enforcement Officer, Vijayawada, who has examined the records of the assessee, and he admits that such reports were not furnished to the petitioner before passing the impugned assessment order.

5. When the order of assessment is solely based on the material and reports submitted by the Regional Vigilance and Enforcement Officer, Vijayawada, it is obligatory on the part of authorities to supply such material along with the notice of assessment and invite objections from the petitioner, before passing the revised assessment order. We have also perused the judgment of this Court in the case of **Sri Uma Maheshwara Rice and Flour Mill** (supra), which supports the claim of petitioner for invalidation of impugned order on the ground that the material basing on which such order is passed, is not supplied to him.

6. On this short ground, without going into merits of the matter, we set aside the impugned assessment order dated 29.03.2014, and remit the matter for fresh consideration by the respondent. Respondent shall furnish to the petitioner, the reports/material supplied by the Regional Vigilance and Enforcement Officer, Vijayawada, and thereafter, pass appropriate orders afresh as expeditiously as possible, preferably within a period of four months from today.

7. Subject to the above directions, the writ petition is disposed of. No order as to costs. Pending miscellaneous applications, if any, shall stand closed.

R. SUBHASH REDDY, J

DR.B.SIVA SANKARA RAO, J

9th February 2015
ajr

[1] (2012) 54 APSTJ 51