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

WRIT PETITION No.14831 of 2014

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

This writ petition is filed questioning the validity of the impugned order dated 09.02.2010 vide proceedings in TIN.No.28610190099, passed by the 1st respondent-Commercial Tax Officer, Hydernagar Circle, Ranga Reddy District, demanding the petitioner-dealer to pay a tax of Rs.1,62,794/-.

2. The petitioner is a Private Limited Company, carrying on the business in teakwood and non-teakwood and registered as a Dealer under the provisions of A.P. VAT Act, 2005 (for brevity "the Act") with the 1st respondent. On the ground that the petitioner has suppressed its sales and evaded VAT in a sum of Rs.1,62,794/-, the impugned order dated 9.2.2010 is passed. The said order is questioned on several grounds, including the ground that there is no specific authorization obtained from the competent authority to initiate proceedings under Rule 59(4) of the VAT Rules.

3. It is contended by the learned counsel for petitioner that in the absence of any specific authorization

from the jurisdictional authority, the assessment order passed is without jurisdiction. In support of his claim, the learned counsel placed reliance on a judgment of this Court in SRI BALAJI FLOUR MILLS, CHITTOOR AND OTHERS vs. THE COMMERCIAL TAX OFFICER-II, CHITTOOR AND OTHERS[1].

4. When the matter came up for hearing on earlier occasion, it was adjourned to enable the learned Government Pleader for Commercial Taxes to obtain instructions as to whether there is any specific authorization from the competent authority to the 1st respondent to pass assessment order against the petitioner. Today, when the matter is called for hearing, the learned Government Pleader has placed before this Court a copy of the letter bearing CTO.Ref.APHC/W.P.14831/14, dated 20.1.2015, issued by the 1st respondent stating that there is no authorization from the competent authority viz., the Deputy Commissioner (Commercial Tax), Hyderabad (Rural) Division, to assess the petitioner-dealer. Basing on the said letter, it is fairly conceded by the learned Government Pleader that there is no specific authorization from the competent authority to the 1st respondent to pass the impugned order.

5. In view of the aforesaid judgment, wherein it was held that unless there is a specific authorization for assessment, the 1st respondent is not competent to pass orders assessing the tax payable by the petitioner. Further, it is submitted that there is no authorization issued till now.

6. For the aforesaid reasons, following the judgment in SRI BALAJI FLOUR MILLS case (supra), the impugned order dated 09.02.2010 is set aside. However, this order will not preclude the 1st respondent to obtain authorization from the competent authority and take steps in accordance with law.

7. Subject to the above observations, this writ petition is allowed. 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

22.01.2015.

Msr

HON'BLE SRI JUSTICE R.SUBHASH REDDY

AND

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[1] 52 STJ 85