THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Petition Nos.13569 and 14679 of 2008

COMMON ORDER: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

In both these writ petitions while the audit officer has been authorised to audit the books of accounts of the petitioner-assessees, he has not been authorised, by the Deputy Commissioner, to assess the petitioners to tax.

As held by a Division Bench of this Court in ***Sri Balaji Flour Mills, Chittoor vs. Commercial Tax Officer-II, Chittoor***[1], it is only if the officer is authorised to conduct an audit and to assess the dealer to tax under the A.P.Value Added Tax Act, 2005 (for short "the Act") by the Deputy Commissioner, is he entitled to pass an assessment order. In the absence of authorisation to assess the dealer to tax, the impugned assessment orders are without jurisdiction and are, accordingly, set aside. It is made clear that this order shall not preclude the assessing authority concerned, or any officer authorised by the Deputy Commissioner, to assess the petitioners to tax in accordance with law. As the assessment orders are liable to be set aside on this short ground, the challenge to the validity of Section 4(7)(e) of the Act is left open for examination in appropriate legal proceedings.

Both the Writ Petitions are disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(A.SHANKAR NARAYANA, J)

21st December, 2016
JSU

[1] (2011) 52 APSTJ 85

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Date: 21.12.2016

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