

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION NO.33404 OF 2010

ORDER:

The petitioner was an Excise Contractor during the year 1989-90. It appears that an amount of Rs.89,639/- was due at that point of time. When all of a sudden, the Prohibition & Excise Inspector, Domakonda issued a distraint order, dated 09-10-2010 for recovery of the said amount, the present writ petition is filed.

2. Learned counsel appearing for the petitioner submits that no notice was issued prior to the present proceedings under the A.P. Revenue Recovery Act, 1864 (for short 'the Act').

3. In spite of giving sufficient opportunity to the respondent, no counter affidavit is filed.

4. The Act provides for detailed procedure for recovery of the amount by various authorities when arrears are treated as arrears of land revenue. The distraint order cannot be issued straight away without issuing any prior notice. The petitioner should be given an opportunity to submit his explanation. Since no show cause notice was issued to the petitioner, this Court is constrained to set aside the distraint order, dated 09-10-2010, passed by the respondent and accordingly, the distraint order is set aside. But, however, it is open to the respondent to proceed against the petitioner in accordance with the provisions of the Act, if the respondent wants to recovery the amount in arrears from the petitioner.

5. Accordingly, the writ petition is allowed. No order as to costs. Miscellaneous petitions, if any pending in this petition shall stand closed.

A.RAMALINGESWARA RAO, J

DATED: 31-03-2016

Hsd