THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION No.11082 of 2017

Between:

M/s. Tirupati Fuels Private Limited,
D.No.11-19-13/2, Dasapalla Hills,
Visakhapatnam, rep. by its Director,
Shib Shankar Chatterjee, S/o. late T.C. Chatterjee

PETITIONER

And

1. The Commercial Tax Officer, Steel Plant Circle, Near Rama Talkies, Visakhapatnam.
2. Dy. Commissioner (CT), Visakhapatnam Division, VUDA Udyog Bhavan, 2nd Floor, Siripuram Junction, Visakhapatnam-3.
3. The State of Andhra Pradesh, rep. by its Principal Secretary, Revenue (CT-II) Department, Secretariat, Vijayawada.

RESPONSENTS

Counsel for the Petitioner: Mr. P. Balaji Varma

Counsel for the Petitioner: Mr. Shaik Jeelani Basha
Special Standing Counsel

Court made the following order:

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION No.11082 of 2017

ORDER: (Per Hon'ble Sri Justice V. Ramasubramanian)

Aggrieved by an order of assessment passed on best of judgment under the Andhra Pradesh Value Added Tax Act, 2005, the petitioner who is a dealer has come up with the present writ petition.

2. Heard Mr. P. Balaji Varma, learned counsel for the petitioner and Mr. Shaik Jeelani Basha, learned Special Standing Counsel for the respondents.

3. The petitioner is partly to be blamed for the 1st respondent passing the order impugned in the writ petition. Despite service of show cause notice, the petitioner did not file any objections and appear for personal hearing. The case of the petitioner is that the business was in serious trouble and that a new management has taken over. Therefore they were unable to submit objections and appear for personal hearing.

4. In cases of this nature, the only alternative available to the dealers like the petitioner is to file a statutory appeal. But in this case, there is a small elbow space. Insofar as the total output tax and input tax tabulated by the 1st respondent in the impugned order are concerned, there is no dispute on facts. All that was required of the petitioner was to produce proof to show eligibility for input tax credit. If this proof had been produced there would have been no difficulty, in arriving at the final figure without disturbing the figures already recorded. Therefore, we are of the considered view that the petitioner deserves one opportunity only for the purpose of producing evidence.

5. Hence the writ petition is allowed, the impugned order is set aside and the petitioner is directed to appear before the 1st respondent on 17.04.2017 along with necessary records. If the said date is not convenient to the 1st respondent, his office may receive the records and fix another date for personal hearing. On that date, the petitioner shall appear for personal hearing and thereafter, the 1st respondent may pass orders afresh. If the petitioner fails to produce the proofs on 17.04.2017 or on any other date as fixed by the 1st respondent, it will be open to the 1st respondent to proceed in accordance with law and the petitioner may not be entitled to once more to such a concession.

6. As a sequel, pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

____
JUSTICE V. RAMASUBRAMANIAN

____
JUSTICE J. UMA DEVI

6th April, 2017
Js.

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION No.11082 of 2017

Date: 06-04-2017

Js.