THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

WRIT PETITION NO.46300 OF 2016

ORDER: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

Heard Sri G.Narendra Chetty, learned counsel for the petitioner and Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes and, with their consent, the Writ Petition is disposed of at the stage of admission.

The impugned assessment order dated 03.12.2016 in Form VAT 305 is questioned in this Writ Petition to the limited extent, the Commercial Tax Officer recommended to the Additional Assistant Commercial Tax Officer to cancel the VAT CST registration of the petitioner, and had directed him to cancel the registration without the requirement of issuing any notice before cancellation as his office had already put the dealer on notice of cancellation.

It is not in dispute that it is the second respondent who is the registering authority, and has been conferred the power to cancel the registration. As the statutory power of cancellation of registration must be exercised by him under Section 19(2) of the Andhra Pradesh Value Added Tax Act, it is for him to apply his mind to the facts and circumstances of the case, and take an independent decision whether or not to cancel the registration. The notice for cancellation of registration must be issued by him, and it would not suffice as compliance with the law if the notice issued by the assessing authority is treated as a notice for cancellation. To the limited extent, the assessing authority directed that the notice issued by him should be treated as a notice for cancellation of registration, and the

Assistant Commercial Tax Officer was directed to cancel the registration of the petitioner, the impugned assessment order is set aside. It is affirmed in all other respects. We, however, make it clear that this order shall not preclude the second respondent, if he so chooses, from initiating proceedings for cancellation of registration of the petitioner, after putting them on notice and giving them an opportunity of being heard.

The Writ Petition stands disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, ACJ)

(A.SHANKAR NARAYANA, J)

2nd January 2017
RRB