THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE T.RAJANI

WRIT PETITION NOs.19149 AND 19150 OF 2017

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

Heard Sri G.Narendra Chetty, learned counsel for the petitioner and Sri S.Suri Babu and Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes and, with their consent, these Writ Petitions are disposed of at the stage of admission.

The proceedings under challenge in these two Writ Petitions are both dated 10.05.2017 for the tax periods 2012-13 and 2013-14. While several contentions are urged by Sri G.Narendra Chetty, learned counsel for the petitioner, in challenge to these assessment orders, it would suffice to note that, in reply to the notice in Form 305-A, the petitioner submitted their explanation. The fact that such an explanation is submitted is not in dispute as the impugned assessment order itself records that the dealer did not file proper objections and material evidence. Except to state that the objections were not proper, the assessing authority has assigned no other reason for confirming the tax proposed in the show cause notice.

A perusal of the reply, submitted by the petitioner, to the show cause notice would show that the petitioner had not only denied that they had effected sales of stone crushers, they had also contended that Section 17 of the Andhra Pradesh Value Added Tax Act ("the Act" for brevity) had no application as they were registered dealers under the Act, and assessees on the rolls of the

CTO, Guntakal. Further, the petitioner had also sought information of the sales allegedly made by them each year, and details of the persons/dealers to whom the goods were sold. The assessing authority was obligated to consider these objections, and pass a reasoned order.

While we were initially inclined to admit the Writ Petitions and grant interim stay, as the impugned order is completely bereft of reasons, both Sri S.Suri Babu and Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial taxes, would submit that, instead, the impugned order be set aside permitting the assessing authority to pass a reasoned order afresh in accordance with law.

In the light of the submissions made by both the learned Special Standing Counsel, the impugned order of assessment is set aside. The assessing authority shall, after giving the petitioner an opportunity of an oral hearing, pass a fresh order of assessment, assigning reasons, at the earliest and in any event not later than two months from the date of receipt of a copy of this order.

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

(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

14th June 2017
RRB