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

WRIT PETITION No. 1497 of 2017

ORDER: ***(Per VRS,J)***

The petitioner has come up with the above writ petition, challenging an order of assessment passed under the Andhra Pradesh Value Added Tax Act, 2005.

2. Heard Mr. Tej Prakash Toshniwal, learned counsel for the petitioner. Mr. M. Govind Reddy, learned special standing counsel for Commercial Taxes, takes notice for the respondents.

3. Though the petitioner has an effective alternative remedy of appeal as against the impugned order, they have come up with the above writ petition, on the short ground of non-consideration of any of the objections raised by them to a show-cause-notice. The operative portion of the order of the Assessing Officer could be usefully extracted to test the veracity of the above contention. Hence, it is extracted as follows:

> *"In response to the show cause notice issued dt.27.06.2015 and for the personal hearing notice dt.23.07.2015 by the undersigned the dealers have requested and sought for the extension of time for personal hearing on several occasions i.e., 29.07.2015, 11.08.2015, 21.08.2015, 18.09.2015,*

> *finally they have been heard on 03.10.2015 as per their convenience. Later, they have sought for another two months time i.e., up to 07.12.2015 which was allowed as desired. Finally, as they have exhausted all the opportunities, there is no other alternative left to the assessing authority except to pass the final orders on the turnovers proposed in the show cause notice dt.27.07.2015."*

4. It is seen from the operative portion of the order that the Assessing Officer did not consider the objections raised by the petitioner. Therefore, *prima facie*, the petitioner appears to be right.

5. But, the petitioner is not entitled to any indulgence from this Court for the reason that after prolonging the matter before the Assessing Officer for a period of six months from 27.06.2015, they also went into a slumber from 08.12.2015 up to January, 2017 to come up with a challenge. Therefore, despite the fact that the respondents have not considered the objections, we do not think that we will entertain the writ petition.

6. However, it appears that the levy is to the extent of nearly Rs.10.00 crores. Therefore, we are of the considered view that the petitioner could be given an opportunity to file a statutory appeal. Hence, the Writ Petition is disposed of, permitting the petitioner to file a statutory appeal on or before 15.02.2017. Upon the petitioner filing an appeal on or before 15.02.2017 along with 12.5% of the tax

demanded, the appellate authority may entertain the appeal and dispose of it, in accordance with law.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J.

31st January, 2017

Note: Issue C.C. today.
(b/o)
cbs

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AND

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Writ Petition No. 1497 of 2017
(disposed of)

31st January, 2017

cbs