* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms. JUSTICE J.UMA DEVI

+ Writ Petition No.15852 of 2017

% 27-4-2017

M/s. Sushee Hitech Projects (P) Ltd.,
Kaushik Society, K.R. Chambers,
Road No.12, Jubilee Hills, Hyderabad-34,
Rep. by its MD K.Anil Reddy

... Petitioner

Vs.

$ 1. Commercial Tax Officer,
Jubilee Hills Circle, Hyderabad;
and 3 others

... Respondents

! Counsel for the Petitioner: Mr. S.Suri Babu

Counsel for Respondents: Mr. T.Vinod Kumar,
Special Standing Counsel

< Gist:

> Head Note:

? Cases referred:
Nil.

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
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Writ Petition No.15852 of 2017

Order: (per V.Ramasubramanian, J.)

The petitioner has come up with the above writ petition challenging a notice of assessment under the Entry Tax Act.

2. Heard Mr. S.Suri Babu, learned counsel for the petitioner and Mr. T.Vinod Kumar, learned Special Standing Counsel for the respondents.

3. The petitioner earlier came up with a writ petition in W.P.No.5873 of 2017. The contention raised by the petitioner was that Dumpers and Excavators upon which entry tax was levied are not tyre-mounted vehicles, but chain-mounted vehicles used exclusively in Mines and that therefore there was no question of bringing these vehicles within the purview of the Act.

4. After considering the definitions of the expression "motor vehicle" appearing in the Motor Vehicles Act, 1939 and in the Motor Vehicles Act, 1988 and after taking note of a decision of this Court in *Vijaya Traders, Kadapa v. Commercial Tax Officer-I, Kadapa* [*(2011) 53 APSTJ 47*], we disposed of the writ petition to the following effect:

> "9. Therefore, the writ petition is disposed of to the following effect:
>
> (1) The petitioner shall file their objections to the impugned notice on or before 13-3-2017;
>
> (2) The 1st respondent, as a quasi-judicial authority, shall independently consider the issues without being

carried away by the opinion of the Assistant Commissioner (CT)-I, Enforcement Wing;

(3) The 1st respondent shall take the assistance of a responsible official of the Transport Department of the State of Telangana to physically inspect the vehicles in question and give an opinion in writing as to whether the vehicles are motor vehicles within the meaning of Section 2(28) of the Motor Vehicles Act, 1988; and

(4) Thereafter, the 1st respondent may hold personal hearing and pass orders in accordance with law."

5. Thereafter, the 1st respondent has issued the impugned notice and the petitioner has come up with a challenge to the same on the ground that the directions issued by this Court to take the assistance of an official of the Transport Department to physically inspect the vehicles, was not complied with.

6. However, it is stated by the learned Special Standing Counsel that an inspection was carried out and that the report of the official of the Transport Department is awaited.

7. Unless and until the report of the official of the Transport Department is received, it may not be possible to decide whether a vehicle inspection actually took place or not. Even the petitioner may not be able to know unless the copy of the report is furnished. Therefore, the learned Special Standing Counsel submits on instructions that the copy of the report will be furnished.

8. Therefore, the writ petition is disposed of directing the Assessing Officer to furnish a copy of the report of the official of the Transport Department, as soon as it is received

and thereafter give an opportunity of personal hearing to the petitioner and pass orders afresh. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

J.UMA DEVI, J.

27th April, 2017.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms JUSTICE J.UMA DEVI

Writ Petition No.15852 of 2017
(per VRS, J.)

27th April, 2017.
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