

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION Nos.7835 and 7844 of 2017

COMMON ORDER: (*Per VRS,J*)

Aggrieved by two orders, one relating to assessment for the period from 01.04.2012 to 31.03.2016 and another relating to penalty, the dealer under the Telangana Value Added Tax Act, 2005 has come up with the present writ petitions.

2. Heard Mr. K. Lakshman, learned counsel for the petitioner.

3. Mr. M. Govind Reddy, learned special standing counsel for Commercial Taxes (Telangana), takes notice for the respondents 1 to 4.

4. Admittedly, an authorization was issued by the Deputy Commissioner for the conduct of an audit on 24.06.2016. In the course of audit, the auditor of the petitioner appeared before the Officer and produced all the records on 11.08.2016. But even before the auditor of the petitioner produced those records, the Assessing Officer sent the papers to the Deputy Commissioner and the Deputy Commissioner issued an authorization for the assessment on 10.08.2016 itself.

5. In other words, on the date on which the authorization for assessment was issued, namely, 10.08.2016, the books of accounts

produced by the petitioner's auditor were not before the Deputy Commissioner. The books of accounts were produced only on 11.08.2016.

6. Therefore, it is clear that the authorization for the assessment was issued, not after an application of mind to the books of accounts and the materials placed. Hence, the assessment order and the consequential order of penalty are vitiated.

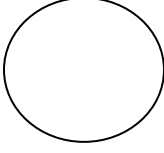
7. In view of the above, both the Writ Petitions are allowed and the impugned orders are set aside. It will be open to the Commercial Tax officer to place the objections as well as the materials relied upon by the petitioner before the Deputy Commissioner, and it will be open to the Deputy Commissioner to take a fresh look and proceed further, in accordance with law.

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

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J.

15th March, 2017
cbs



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Writ Petition Nos.7835 & 7844 of 2017
(allowed)

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