IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

Delivered on: 21-04-2017

Coram:

The Honourable Mr. Justice V.RAMASUBRAMANIAN
and
The Honourable Ms. Justice J.UMA DEVI

<u>Writ Petition No.13179 of 2017</u>

Between:

M/s. Lakshmi Cashew Processing Unit,
D.No.2-192, Korukonda Road, Opp: SBI, Rajanagaram,
East Godavari District, A.P., represented by its
Proprietrix Smt. M. Laxmi

… Petitioner

Vs.

1. The Commercial Tax Officer,
   Alcot Gardens Circle, Rajahmundry,
   East Godavari District, A.P.

2. The Deputy Commercial Tax Officer-III,
   Alcot Gardens Circle, Rajahmundry, E.G. Distirct
   Andhra Pradesh

3. The Commissioner of Commercial Taxes,
   Government of Andhra Pradesh, Vijayawada

4. The State of Andhra Pradesh, represented by its
   Secretary, Revenue (CT) Department, Secretariat
   Buildings, Amarvathi, Guntur District

.. Respondents

For Petitioner : Mr. Vemireddy Bhaskar Reddy

For Respondents : Mr. Shaik Jeelani Basha,
standing counsel

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE MS. JUSTICE J. UMA DEVI

Writ Petition No.13179 of 2017

ORDER: (V. Ramasubramanian, J)

Aggrieved by an order of attachment as well as a notice for sale of land, the dealer under the Andhra Pradesh Value Added Tax Act, 2005 has come up with the above writ petition, challenging not only the attachment and notice of sale, but also the orders of assessment.

2. Heard Mr. Bhaskar Reddy Vemireddy, learned counsel for the petitioner. Mr. Shaik Jeelani Basha, learned special standing counsel takes notice for the Department.

3. If we go only by the sequence of events in the case on hand, the petitioner may not be entitled to any relief. The first reason is that the assessment orders passed way back on 29-12-2008 and 06-01-2011 in relation to the Assessment Years 2007-08 to 2008-09 and 2009-10 to 2010-11 are sought to be challenged directly before this Court after about 6 years and 8 years, and that too only after a notice of attachment and sale of land are issued.

4. But the case on hand appears to be one that has arisen under extraordinary circumstances. The petitioner has produced a series of medical records to show that her husband, who was virtually doing the business in her name, suffered from paralysis from the year 2008 and eventually died on 27-03-2014. The medical records produced before us show that the petitioner'0s husband was under treatment for paralytic attack from the year 2009, until his

death in 2014. Therefore, it will be difficult to apply the strict rule of law in such cases.

5. It is true that the orders of assessment were passed *ex parte*. Therefore, if one opportunity is granted to the petitioner, the petitioner may perhaps be able to produce records and defend the action.

6. Therefore, in view of the extraordinary situation, the writ petition is allowed, the impugned orders of assessment are set aside and the matter is remanded back to the Assessing Officer. The petitioner shall either appear personally or through authorized representative before the Assessing Officer on 15-05-2017 along with the objections that she has to the show cause notices. She may also file all documents on which reliance is placed. If the said date is not convenient to the Assessing Officer, his office may receive the objections and the records and thereafter the Officer may fix a date for personal hearing. After giving an opportunity of personal hearing, the Assessing Officer shall pass orders afresh. As a consequence, the notice for sale of land is set aside. But the order of attachment shall remain in force until the order of assessment is passed.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

Date: 21-04-2017

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