THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE SMT. JUSTICE T. RAJANI

WRIT PETITION No.29404 of 2017

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

The petitioner has come up with the above writ petition, challenging an order of revision of assessment under Section 32(2) of the Telangana Value Added Tax Act, 2005.

2. Heard Mr. V. Gangadhara Sastry, learned counsel for the petitioner. Mr. T. Vinod Kumar, learned special standing counsel for the Commercial Tax Department (Telangana), takes notice for the respondents.

3. The petitioner has an alternative remedy of appeal to the Tribunal, as against the impugned order. But, he has come up with the above writ petition bypassing the alternative remedy, on the ground that the impugned order was obviously beyond the period of limitation prescribed by Section 32(3).

4. Even according to the petitioner, the order of assessment was served on him on 28.03.2013. But, the impugned order of revision of assessment, though dated 27.03.2017, was served on him on 07.04.2017. Therefore, he claims that the impugned order was beyond the period of limitation.

5. Section 32(3) of the Telangana Value Added Tax Act, 2005 reads as follows:

> *"In relation to an order of assessment passed under the Act, the powers conferred by sub-sections (1) and (2) shall be exercisable only within a period of four years from the date on which the order was served on the dealer."*

6. A Careful reading of the above provision would show that the same incorporates both the date of commencement of the period of limitation and the date of conclusion of the period of limitation. While dealing with the starting date for the period of limitation, the Statute uses the expression *"served"*. But insofar as the date, within which the power under Section 32(3) is to be exercised, is concerned, the Statute uses the expression *"power exercisable"*.

7. Therefore, it is obvious that if an order is passed, the date on which the order is passed, is the date on which the power is exercised. The Statute does not use the expression *"served"*, while fixing the date on which the limitation expires.

8. In stray cases where orders are served several months after the expiry of the period of limitation, the Courts have suspected those orders to have been passed possibly beyond the period of limitation, but antedated. But, that is not the case, insofar as the present impugned order is concerned.

9. Hence, we are of the considered view that the petitioner should actually go before the appellate authority.

10. It appears that the period of limitation for filing the appeal and the period, up to which delay can be condoned by the appellate authority, have now expired. But, the writ petition was filed on 11.07.2017 and the same has come for hearing only today.

11. Therefore, the Writ Petition is dismissed, with liberty to the petitioner to file a statutory appeal. While computing the period of limitation, the appellate authority shall exclude the period from 11.07.2017 up to the date of issue of a copy of this order. No order as to costs.

12. The Registry is directed to return the original impugned order to the petitioner.

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

V. RAMASUBRAMANIAN, J

T. RAJANI, J.

1st September, 2017
cbs

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN √

AND

THE HON'BLE SMT. JUSTICE T. RAJANI

Writ Petition No.29404 of 2017
(dismissed)

1st September, 2017

cbs

*THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

*THE HON'BLE SMT. JUSTICE T. RAJANI

+W.P.No.29404 of 2007

% 01-09-2017

M/s. Adhunik Designers, Sainikpuri,
Defence colony, Secunderabad. .. Petitioner

Vs.

$ Deputy Commercial Tax Officer-I,
Nacharam circle, Saroornagar Division,
Hyderabad and two others .. Respondents

<GIST:

>HEAD NOTE:

! Counsel for petitioner : Mr. V.Gangadhara Sastry

^ Counsel for respondents : Mr. T. Vinod Kumar, learned special standing counsel for the Commercial Tax Department (Telangana)

? CASES REFERRED : ---