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

THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

And

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

Writ Petition No.33929 of 2017

Between:

M/s. Sumeet Electrical Stores, 11-31-28,
Park Road, Vijayawada, Krishna District,
Represented by its Proprietrix, Smt. Aruna Kumarai Jain

… Petitioner

Vs.

The State of Andhra Pradesh, represented by its
Principal Secretary, Revenue (CT-II) Department,
A.P. Secretariat, Velagapudi, Amaravathi,
Guntur District and 2 others

.. Respondents

For Petitioner : Mr. K. Radhika

For Respondents : Mr. S. Suribabu, learned special Standing counsel

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

Writ Petition No.33929 of 2017

ORDER: ***(V. Ramasubramanian, J)***

The petitioner has come up with the above writ petition challenging a revision of assessment ordered under Section 9 (2) of the Central Sales Tax Act, 1956 read with Section 32 (2) of the Andhra Pradesh Value Added Tax Act, 2005.

2. Heard Mrs. K. Radhika, learned counsel for the petitioner and Sri S. Suribabu, learned special standing counsel for the respondents.

3. The impugned order is assailed on the ground that if the Revisional Authority had found some discrepancies in the E-1 form, he could have put the petitioner on notice before rejecting the same. Reliance is placed upon a decision of this Court in W.P.No.10314 of 2017 dated 06-04-2017. Additionally, the tax payable on the item is only 4%, in the light of the production of C-form, but the impugned order levies tax at 12.5%.

4. Though the learned senior standing counsel for the department has a dispute with regard to the first ground of attack, he has no answer to the second ground of attack namely with regard to the rate of tax. Therefore, we are of the view that instead of setting aside the matter and remitting it back on the first ground, the impugned order can be modified so that the correct rate of tax is applied.

Therefore, the writ petition is allowed, the impugned order is modified to the extent that the rate of tax payable will be 4% and not 12.5%, the petitioner may calculate the tax at such rate and pay the same accordingly, and the matter may be given a quietus by the respondents.

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

V. RAMASUBRAMANIAN, J

ABHINAND KUMAR SHAVILI, J

Date: 12-10-2017

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