THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION No.10314 of 2017

Between:

M/s. Srinidhi Oil Products, Lollur Village,
Singanamala Mandal, Anantapur District,
A.P., rep. by its Partner, M. Sreedhar.

PETITIONER

And

1. The Additional Commissioner (CT) Legal, O/o. The Commissioner of Commercial Taxes, A.,P., D.No.5-59, R.K. Spring Valley Apartments, Bandar Road, Edupugallu Village, Kankipadu Mandal, Near Vijayawada, Krishna District.
2. The Commercial Tax Officer-I, Ananthapur-I Circle, PAR Heights, Gooty Road, Anantapur, Anantapur District, A.P.,
3. The State of Andhra Pradesh, rep. by the Secretary to the Government, Revenue (CT), Velagapudi, Guntur District, A.P.

RESPONSENTS

Counsel for the Petitioner: Mr. G. Narendra Chetty

Counsel for the Petitioner: Mr. S. Suri Babu
Special Standing Counsel for CT

Court made the following order:

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

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ORDER: (Per Hon'ble Sri Justice V. Ramasubramanian)

The petitioner, who is a registered dealer under the General Sales Tax Act, 1956, has come up with the present writ petition challenging a revised order of assessment passed under the General Sales Tax Act, 1956.

2. Heard Mr. G. Narendra Chetty, learned counsel for the petitioner and Mr. S. Suri Babu, learned Special Standing Counsel for the respondents.

3. Obviously, the impugned order has been passed without the petitioner either filing objections or appearing for personal hearing. But what has happened in this case is that the C-Forms filed by the petitioner at the time of assessment were accepted by the Assessing Officer. But in a revision, the Additional Commissioner has rejected those C-Forms on the ground of discrepancies. In such cases, two issues would normally arise for consideration, viz., (1) as to whether after a long period of time a revisional authority can reject the C-Forms which were accepted by the Assessing Officer and (2) as to whether while doing so, the dealer should have an opportunity or not.

4. On the first question, we have our own doubts. If an Assessing Officer accepts the statutory forms and passes an order of assessment, a revisional authority should normally go by it, unless the Assessing Officer has any suspicion. To reject the very same Forms accepted by the

Assessing Officer, would tantamount to finding fault with the manner in which the Assessing Officer accepted the Forms.

5. There is no doubt that the revisional authority has the power to do so. But it is not a question of existence of power but a question of exercise of the power, and in what circumstances the same could be exercised.

6. In any case, the second contention of the petitioner needs to be accepted. Before rejecting the C-Forms as containing discrepancies, the revisional authority should have returned the C-Forms and given an opportunity to the dealer to rectify the defects. This is also the view taken by a Bench of this Court in Agarwal Industries Limited v. Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad[1].

7. Therefore, the writ petition is allowed on the second contention and the matter is remanded back to the revisional authority. The revisional authority shall return the C-Forms to enable the petitioner to rectify the discrepancies, if possible, within a time frame fixed by him. Thereafter, the revisional authority may pass orders afresh.

8. As a sequel, pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

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JUSTICE V. RAMASUBRAMANIAN

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JUSTICE J. UMA DEVI

6th April, 2017
Js.

[1] (2013) 61 VST 346

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Date: 06-04-2017

Js.