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 SHAVALI

Writ Petition No.9961 of 2017

Between:

M/s. Venkateswara Electrical & General Stores,
D.No.10/157/1, Hanumanpet, Kanchikacherla,
Krishna District, represented by its Proprietor
Mr. Nannapaneni Venkata Durga Rao

… Petitioner

Vs.

State of Andhra Pradesh, represented by its
Principal Secretary, Revenue (CT.II) Department,
Secretariat, Amaravathi, Guntur District and another

.. Respondents

For Petitioner : Mr. P. Balaji Varma

For Respondents : S. Suribabu, learned spl. Standing counsel

HON'BLE MR JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE MRS. JUSTICE ABHINAND KUMAR SHAVALI

<u>Writ Petition No.9961 of 2017</u>

<u>ORDER:</u> ***<u>(V. Ramasubramanian, J)</u>***

The petitioner has come up with the above writ petition challenging an order by which the Assessing Officer levied tax as well as penalty.

2. Heard Mr. P. Balaji Varma, learned counsel for the petitioner and Mr. S. Suribabu, learned special standing counsel for the respondent-department.

3. As we have pointed out at the time of admission on 21.03.2017, the impugned order is not challenged in entirety. The petitioner challenges only the portion of the impugned order that deals with the penalty levied at 100%, under Section 53 (3) of the Andhra Pradesh Value Added Tax Act, 2005.

4. The challenge is on the ground that the show cause notice does not refer to any issue of penalty. A single order of assessment as well as penalty cannot be passed after issuing a show cause notice in relation to assessment. Therefore, the impugned order requires to be set aside, as there cannot be a composite order and also on account of the fact that there was no separate show cause notice.

5. Therefore, the writ petition is allowed and the impugned order is set aside. The respondents shall pass fresh orders both in relation to tax assessment as well as the penalty.

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

V. RAMASUBRAMANIAN, J

ABHINAND KUMAR SHAVALI, J

Date: 21-09-2017

Ksn