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

Writ Petition Nos.21180, 21234,
21253 and 21278 of 2015

Common Order: (per V.Ramasubramanian, J.)

The petitioners in all these writ petitions are builders, who neither registered themselves as a dealer under the Andhra Pradesh Value Added Tax Act, 2005 nor went under the composition scheme under Section 4(7)(d) of the Act. As a consequence, the petitioners in these cases suffered orders of assessment way back in the year 2010. They woke up from their slumber only when the demand notices were issued and they have come up with the above writ petitions challenging the orders of assessment as well as the demands made.

2. Heard Mr. G.V.L. Murthy, learned counsel for the petitioners and Mr. S.Suri Babu, learned Special Standing Counsel for the respondents.

3. Admittedly, the petitioners did not register themselves under the A.P. VAT Act. They did not also opt for composition under Section 4(7)(d) of the Act.

4. The orders of assessment were passed on 03-02-2010 and 02-3-2010. No appeals were filed as against the orders of assessment.

5. Though the Government of Andhra Pradesh issued a Circular dated 17-6-2011, allowing a small reprieve, the

petitioners did not avail the benefit of the Circular also. The Circular dated 17-6-2011 reads as follows:

> "2. The Commissioner of Commercial Taxes, AP, Hyderabad, vide reference 1st cited, stated that since the issue involves only technical requirement of VAT registration and filing of Form VAT 250 to opt for composition under AP VAT Act, 2005, Government may as a one time measure to consider the representation of the apartment builders to get themselves regularized and to pay tax @ 1% for the past and future work contracts. He has also stated that as the builders did not collect VAT @ 12.5% / 14.5% from the customers, they may be allowed to pay VAT @ 1% besides interest @ 12% per annum from the due date of VAT payment and requested to issue similar orders as was passed under the APGST regime vide Govt. Memo No.72374/CT.II(1)/2002, dt:28.1.2003.
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> 3. Government, after careful examination, hereby order and permit those apartment builders, who have not registered and not opted for composition of tax under Section 4(7)(d) under AP VAT Act, 2005 to register themselves as VAT dealers and pay tax @ 1% under composition scheme. They should also pay interest, as applicable under the AP VAT Act, from the due date till actual payment of the VAT due.
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> 4. However, pending reassessment of tax @ 1% plus interest due, the Commissioner of Commercial Tax is advised not to take any coercive action against the concerned builders.
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> 5. The Commissioner of Commercial Taxes is requested to take further necessary action in the matter."

6. It is only when a notice was issued on 20-5-2015, the petitioners rushed to this Court in the year 2015.

7. The petitioners have not only failed to avail every opportunity available under the Statute, but also failed to avail the opportunities granted by the Circular. Hence, no relief can be granted to the petitioners. Therefore, the writ

petitions are dismissed. The miscellaneous petitions, if any, pending in these writ petitions shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

T.RAJANI, J.

11th September, 2017.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SMT. JUSTICE T.RAJANI

Writ Petition Nos.21180, 21234,
21253 and 21278 of 2015
(per VRS, J.)

11th September, 2017.
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