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.32771 of 2017

Between:

M/s.Sunway Opus International Pvt. Ltd.,
Sy.Nos.162p & 164, Ameenpur,
Off Miyapur-Bachupalli Road,
Hyderabad – 502 032, State of Telangana,
Rep. by its Director Mr. Pradeep Nutalapati.

...Petitioner

Vs.

The Commercial Tax Officer,
Sangareddy, Medak District,
(Now Sangareddy District) and others

.. Respondents

For Petitioners : Ms Shaik Vaheeda Sushma

For Respondents : Mr. T. Vinod Kumar

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

Writ Petition No.32771 of 2017

ORDER: *(per VRS, J)*

The petitioner, who is a registered dealer on the rolls of the 1st respondent, both under the Central Sales Tax Act, 1956, and under the Telangana Value Added Tax Act, 2005, has come up with the above writ petition challenging the order of assessment, passed in respect of the period 2012-13.

2. Heard Ms Shaik Vaheeda Sushma, learned counsel for the petitioner and Mr. T. Vinod Kumar, learned Special Standing Counsel for the respondents.

3. The short ground on which the impugned order is challenged is that for the very same assessment year 2012-13, the Assistant Commissioner of Commercial Taxes, had already passed an order on 13.01.2015, pursuant to an audit conducted and after issuing a show cause notice and considering the objections. But, without reference to the said order passed by a superior authority, namely, the Assistant Commissioner on 13.01.2015, the Commercial Tax Officer has passed the impugned order in respect of the very same assessment year 2012-13.

4. The fact that there was already an order of assessment, right or wrong, passed by the Assistant Commissioner, is not in dispute. There are other provisions in the statute, which pave the way for a superior authority, to do anything that they want, if the original order of assessment passed in 2015 was considered as flawed. But certainly, a fresh order of assessment cannot be passed by a different officer and who also happens to be an authority subordinate in rank.

5. Therefore, on the above short ground, the writ petition is allowed and the impugned order is set aside.

6. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

ABHINAND KUMAR SHAVILI, J

October 03, 2017

KTL