* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

+ <u>Writ Petition No.33779 of 2017</u>

% 10-10-2017

# M/s. Peddi Srinivas Reddy, Works Contractor,
S/o. Veera Reddy, Aged about 55 years, Hanmakonda,
Warangal (Urban) District, Telangana State

… Petitioner

Vs.

$ 1. State of Telangana, Rep. by its Prl. Secy. to Govt.,
Revenue (CT-II) Dept., Secretariat Bldg.,
Saifabad, Hyderabad

2. The Deputy Commissioner of Commercial Taxes,
Warangal Division, Telangana State

3. The Commercial Tax Officer,
Janagon, Telangana State

… Respondents

! Counsel for the Petitioner: Mr. M.V.J.K. Kumar

Counsel for Respondents 1to3: Mr. T.Vinod Kumar,
Spl. Standing Counsel

< Gist:

> Head Note:

? Cases referred:
Nil.

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

Writ Petition No.33779 of 2017

Order: (per V.Ramasubramanian, J.)

The petitioner, who is a registered dealer under the Andhra Pradesh General Sales Tax Act, 1957, has come up with the above writ petition challenging an order passed by the Deputy Commissioner (Commercial Taxes), pursuant to an order of remand passed by the Sales Tax Appellate Tribunal.

2. Heard Mr. M.V.J.K. Kumar, learned counsel for the petitioner. Mr. T.Vinod Kumar, learned Special Standing Counsel, takes notice for the respondents.

3. The assessment for the year 2001-02 was completed on 26-4-2003 under the A.P. General Sales Tax Act, 1957. It was revised by the Deputy Commissioner by an order dated 17-3-2007. The order of the Deputy Commissioner was partly set aside by the Tribunal by an order dated 06-9-2012 and the matter remanded back to the Deputy Commissioner.

4. Thereafter, the Deputy Commissioner passed the impugned order. It is against the said order that the petitioner has come up with the above revision.

5. The main grievance of the petitioner is that notices were not served and that the statement made in the impugned order as though the petitioner failed to produce the

books of accounts and failed to file any objection despite an opportunity, is not factually correct.

6. It appears from the references cited in the impugned order that a notice which is not very clearly dated is claimed to have been sent to the petitioner. To be precise, there are four items in the reference column of the impugned order. Item No.1 is the original assessment order. Item No.2 is the revisional order passed by the Deputy Commissioner. Item No.3 is the order of the Sales Tax Appellate Tribunal. Item No.4 is a notice allegedly sent on .....-01-2015.

7. The claim of the petitioner is that no such notice was ever sent to him. The grievance of the petitioner is probablised by the fact that there is no reference in the impugned order to the factum of service of any such notice. Therefore, the case appears to be one of violation of principles of natural justice.

8. In view of the above, the writ petition is allowed, the impugned order is set aside and the matter remanded back to the Deputy Commissioner. The impugned order shall be treated as a show cause notice and the petitioner shall file objections to the show cause notice on or before 30-10-2017. While sending the objections, the petitioner should also clearly state his address for communication to which all future correspondence will be sent at his risk. Thereafter, the Deputy Commissioner shall fix a date for personal hearing

and pass orders afresh. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

ABHINAND KUMAR SHAVILI, J.

10th October, 2017.
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Note:-
Issue C.C. by 11-10-2017.
(B/o)
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

Writ Petition No.33779 of 2017
(per VRS, J.)

10th October, 2017.
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