THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SMT. JUSTICE T. RAJANI

<u>WRIT PETITION No.30272 of 2017</u>

<u>ORDER:</u> ***(Per VRS,J)***

Aggrieved by the rejection of a statutory appeal without even issuing a notice to the petitioner, the dealer under the Central Sales Tax Act, 1956, has come up with the above writ petition.

2. Heard Mr. Bhaskar Reddy Vemireddy, learned counsel for the petitioner, and Mr. Shaik Jeelani Basha, learned special standing counsel for the Commercial Tax Department (AP), appearing for the respondents.

3. It is apparent from the impugned order that no notice was issued to the petitioner before the appeal was rejected. But, it is contended by Mr. Shaik Jeelani Basha, learned special standing counsel, that the appellate authority rejected the appeal, as he found the appeal to have been filed beyond the period of limitation.

4. But, what the Officer has overlooked is the claim of the petitioner that the original order was not served on him in the manner known to law. Therefore, his specific contention was that he had filed the appeal within the period of limitation from the date of his knowledge.

5. Whether a person has filed an appeal within the period or not, and whether the original order was served in a manner known to law

or not, are all questions of fact, which should have been decided by the appellate authority after hearing the petitioner. Since the appellate authority did not hear the petitioner on this aspect, the impugned order is liable to be set aside.

6. Accordingly, the Writ Petition is allowed and the impugned order is set aside. The petitioner shall send a response to the appellate authority, as to how the appeal was filed in time and as to how he claims not to have received the original order of assessment. This response shall be sent within fifteen (15) days from the date of receipt of a copy of this order. Thereafter, the appellate authority shall fix a date for hearing, give an opportunity of hearing to the petitioner, and proceed further, in accordance with law.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

T. RAJANI, J.

13th September, 2017
cbs

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN √

AND

THE HON'BLE SMT. JUSTICE T. RAJANI

Writ Petition No.30272 of 2017
(allowed)

13th September, 2017

Cbs

*THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

*THE HON'BLE SMT. JUSTICE T. RAJANI

+W.P.No.30272 of 2017

% 13-09-2017

M/s. Surya Durga Powers, Vijayawada,
Krishna District, A.P. .. Petitioner

Vs.

$ The Assistant Commissioner (ST), Vijayawada
And four others .. Respondents

<GIST:

>HEAD NOTE:

! Counsel for petitioner : Mr. Bhaskar Reddy Vemireddy

^ Counsel for respondents : Mr. Shaik Jeelani Basha, special standing counsel for Commercial Tax Department (AP)

? CASES REFERRED : ---