THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 37516 OF 2017

DATED 13TH NOVEMBER, 2017

Between:

B.Rama Koteswara Rao … Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Finance Department, Secretariat,
Velagapudi, Guntur District, and others … Respondents

Counsel for the petitioner : Sri S.Dilip Jayaram

Counsel for the respondents : Sri S.Suri Babu

THE COURT MADE THE FOLLOWING

ORDER: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

This Writ Petition is filed for issue of *mandamus* to set aside order in Rc.No. 49/2014/SA2 dated 26-09-2017 of respondent No. 4.

2. We have heard learned counsel for the petitioner and Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes (A.P.).

3. The petitioner holds VAT registration as a dealer. For the assessment year 2008-09, respondent No. 4 assessed tax at Rs.7,07,031/- by his order dated 25-07-2012. Aggrieved thereby, the petitioner filed appeal before respondent No. 3. By order dated 29-09-2014, respondent No. 3 remanded the case to respondent No. 4. Thereafter, respondent No. 2 exercised *suo motu* revisional power *vide* his proceedings dated 27-07-2015 against the order of respondent No. 3. On receipt of notice in the said proceedings, the petitioner submitted his objections. While the said revisional proceedings are pending before respondent No. 2, respondent No. 4 issued show-cause notice on 16-09-2017 for making a fresh assessment consequent on the remand of the case by respondent No. 3. The petitioner submitted his objections *inter alia* to the effect that when the *suo motu* revisional proceedings are pending before

respondent No. 2, respondent No. 4 has no jurisdiction to make a fresh assessment in pursuance of the remand order. Ignoring the said objection, respondent No. 4 passed the impugned assessment order.

4. When this case came up for admission on 10-11-2017, learned Special Standing Counsel for Commercial Taxes (A.P.) requested for an adjournment for instructions. Today, on instructions, he has not disputed the fact that the *suo motu* revisional proceedings initiated by respondent No. 2 are still pending. In our opinion, when the *suo motu* revisional proceedings of respondent No. 2 are pending with reference to the remand order of respondent No. 3 against the order dated 25-07-2012 of respondent No. 4, respondent No. 4 is denuded of jurisdiction to pass a fresh assessment order purporting to comply with the remand order of respondent No. 3. We find from the impugned proceedings of respondent No. 4 that the specific objection raised by the petitioner in this regard has not been dealt with.

5. In these facts and circumstances of the case, the impugned assessment order of respondent No. 4 cannot be sustained and the

same is accordingly set aside. The Writ Petition is allowed. Needless to observe that the petitioner's liability to pay tax depends upon the outcome of the revisional proceedings pending before respondent No. 2.

6. As a sequel to disposal of the Writ Petition, W.P.M.P.No. 46588 of 2017 shall stand closed as infructuous.

C.V.NAGARJUNA REDDY, J.

CHALLA KODANDA RAM, J.

Date: 13-11-2017.
JSK