The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice T.Amarnath Goud

Writ Petition No.40554 of 2017

Dt: 04-12-2017

Between:

M/s.Madhura Meenakshi Plywood and Wood beeding,
Narsaraopet, Srirampuram,
Rep. by its Proprietor
Sri M.Siva Reddy

….Petitioner

and

The State of Andhra Pradesh
Rep. by its Prl.Secretary (Revenue)
Amaravathi, Andhra Pradesh and 4 others

….Respondents

Counsel for the Petitioner: **Mr.MVJK.Kumar**

Counsel for the respondents: **Mr.S.Suri Babu,**
Spl.SC for Commercial Taxes (AP)

The Court made the following:

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

This Writ Petition is filed for issue of a Mandamus to declare the action of respondent No.4- Deputy Commercial Tax Officer-II, Narsaraopet Circle, in passing Assessment Order, dated 08-02-2016, in Form VAT 305, as illegal and arbitrary.

We have heard Mr.MVJK.Kumar, learned Counsel for the petitioner, and Mr.S.Suri Babu, learned Special Standing Counsel for Commercial Taxes (AP).

A perusal of the record shows that respondent No.2 has issued show cause notice, dated 30-01-2016, wherein it is indicated that the petitioner has claimed excess input tax credit of Rs.3,11,750/- and also proposed deficit stock variation tax of Rs.3110/-. In the notice, the petitioner was granted 15 days' time for submitting explanation. However, without waiting for expiry of the time granted in the show cause notice, respondent No.2 has passed the impugned assessment order on 08.02.2016 itself, thereby, depriving the petitioner of the opportunity of submitting its explanation.

The above facts have not been disputed by the learned Special Standing Counsel for Commercial Taxes (AP).

Therefore, the impugned Assessment Order, dated

08.02.2016, is vitiated on account of non-observance of the principles of natural justice and on this short ground alone, the same is set aside. The petitioner is permitted to submit its objections within two weeks from the date of receipt of this order. Upon considering such objections, if any, respondent No.2 is left free to pass a fresh order.

The Writ Petition is, accordingly, allowed.

As a sequel, WPMP.No.50349 of 2017, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(T.Amarnath Goud, J)

Date: 04-12-2017
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