

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.2174 OF 2018

JUDGMENT: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Sri S. Ravi, learned Senior Counsel appearing on behalf of the petitioner, would submit that, while several contentions are urged in the writ petition in challenge to the assessment order passed by the Commercial Tax Officer, Madanapalle, in Form VAT 305 dated 11.01.2018, it would suffice if the petitioner is granted liberty to pursue the remedy of an appeal on all issues, other than the validity of the order of confiscation passed by the assessing authority as a consequence of the order of the assessment. Learned Senior Counsel would draw our attention to Rule 52(4) of the A.P.VAT Rules, 2005, in support of his submission that it is only after an order of seizure is passed, in Form No.603, can an order of confiscation follow in Form No.603, that too only after the dealer is given an opportunity of being heard.

Sri Shaik Jeelani Basha, learned Special Government Pleader for Commercial Tax (A.P) would submit that, while the construction placed on behalf of the petitioner on Rule 52(4) is erroneous, it is unnecessary for this Court to examine this aspect, and it would suffice if the respondents are given liberty to initiate independent confiscation proceedings in accordance with law.

We consider it appropriate, in such circumstances, to set aside the order of confiscation, leaving it open to the respondents to take action, in accordance with law, for seizure and confiscation of

the subject goods. It is made clear that this order shall not disable the petitioner from availing his remedy of an appeal under Section 31 of the A.P.V.A.T Act, 2005.

The writ petition, is accordingly, disposed of. No order as to costs. Miscellaneous Petitions, if any pending in this writ petition shall also stand closed.

RAMESH RANGANATHAN, ACJ

KONGARA VIJAYA LAKSHMI, J

14th February, 2018
Gk



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