* IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

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

+ W.P.No.7174 of 2018

% Date: 09-04-2018

Between:

M/s. Sangam Milk Producer Company Limited,
Rep. by its General Manager (Finance & Accounts),
Sri P. Sambasiva Rao, Vadlamudi,
Chebrolu Mandal, Guntur District – 522 213.

…Petitioner

Vs.

1. Additional Commissioner (CT) Legal, O/o. The Commissioner of Commercial taxes, Andhra Pradesh, Edupugallu, Near Vijayawada.
2. Appellate Deputy Commissioner (CT), Tirupathi.
3. Assistant Commissioner (CT) LTU, Guntur Division, Guntur.
4. State of Andhra Pradesh, rep. by its Principal Secretary to Government, Revenue (CT-II) Department, Secretariat, Velagapudi, Amaravathi, Guntur District.

…Respondents

! Counsel for the Petitioner : Mr. S. Dwarakanath

^ Counsel for the Respondents : Mr. S. Suribabu Spl. SC for CT

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> HEAD NOTE:

? Cases referred

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

W.P.No.7174 of 2018

ORDER: (per VRS,J)

Aggrieved by an order passed by the Appellate Deputy Commissioner dismissing an appeal under the APVAT Act, 2005, the dealer has come up with the above appeal.

2. Heard Mr. S. Dwarakanath, learned counsel for the petitioner. Mr. S. Suribabu, learned Special Standing Counsel takes notice for the respondents.

3. The issue raised by the petitioners is as to whether pasteurized flavored milk is exempt under Entry No.16 of Schedule-I of the A.P. VAT Act or not. The Sales Tax Appellate Tribunal, by an order dated 23.01.2007 passed in TA No.1147 of 2005 held that the flavored milk is exempt under Entry 16 of Schedule-I. As against the said case, it appears that the petitioner has filed a tax revision case and it is pending on the file of this Court. Merely on account of pendency of Tax Revision Case, the Appellate Deputy Commissioner has taken the view that the order of the Tribunal is not binding upon him. This view of the Appellate Deputy Commissioner is wrong. So long as the order of the Tribunal is neither stayed nor set aside, the same is binding upon the Assessing Officer, the Appellate Authority and the Revisional Authority.

4. Therefore, the writ petition is allowed, the impugned order is set aside and the matter is remanded back to the Appellate Deputy Commissioner. He is directed to pass a fresh order following the order of the Sales Tax Appellate Tribunal. Since the matter is remanded, all issues

including the one that we have mentioned above shall be reconsidered afresh. There shall be no order as to costs.

5. As a sequel, miscellaneous petitions pending in this writ petition, if any, shall stand closed.

V. RAMASUBRAMANIAN, J.

ABHINAND KUMAR SHAVILI, J.

9th April, 2018
Js.

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

W.P.No.7174 of 2018
(Per VRSJ)

9th April, 2018

Js.