* 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 G. SHYAM PRASAD

+ W.P.No.8744 of 2018

%Date: 18-04-2018

Between:

M/s. Sri Laxmi Traders, Yeditha,
Rep. by its Proprietrix Smt. P. Satyavathi,
W/o. Late, Sri P. Subba Rao,
R/o. Yeditha, Mandapet Village,
East Godavari District, Andhra Pradesh.

…Petitioner

Vs.

1. The Commercial Tax Officer, Mandapet, East Godavari District, Andhra Pradesh.
2. The State of Andhra Pradesh, rep. by its Principal Secretary, Revenue Department (CT-II), Velagapudi, Amaravathi, Guntur District, Andhra Pradesh.

…Respondents

! Counsel for the Petitioner : Mr. M.V.J.K. Kumar

^ Counsel for Respondents 1 & 2 : Mr. Shaik Jeelani Basha

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? Cases referred

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE G. SHYAM PRASAD

W.P.No.8744 of 2018

ORDER: (per VRS,J)

Contending that no show cause notice was issued before the order of assessment was passed and that even the order of assessment was not served, the dealer under the A.P. VAT Act, 2005 has come up with the above writ petition.

2. Heard Mr. M.V.J.K. Kumar, learned counsel for the petitioner and Mr. Shaik Jeelani Basha, learned Special Standing Counsel for the respondents.

3. Even as per the impugned order, the show cause notice sent on 05.03.2011 was not served on the dealer due to the closure of the business. It is represented in the impugned order itself that the Proprietrix of the petitioner was residing in Bombay and that her husband had expired, on account of which, the show cause notice could not be served.

4. In view of the admitted position, it is clear that due to the circumstances beyond the control of the petitioner, though the department may not entirely be at fault, the petitioner did not have sufficient opportunity to defend herself against the show cause notice.

5. The fate that fell upon the show cause notice also appears to have fallen upon the impugned order and the petitioner came to know about the impugned order only after the revenue recovery proceedings were initiated.

6. Therefore, we are of the considered view that the petitioner deserves an opportunity. Hence the writ petition is allowed, the impugned order is set aside and the petitioner is directed to file a reply, treating the

assessment order itself as a show cause notice. The reply shall be filed on or before 14.05.2018. Thereafter, the Assessing Officer shall fix a date of personal hearing, in the 1st week of June, 2018, after intimating the same in advance to the petitioner. Thereafter, the Assessing Officer may pass orders afresh. The petitioner shall indicate in her objections, the address for service of all future notices and the order copies. There shall be no order as to costs.

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

V. RAMASUBRAMANIAN, J.

G. SHYAM PRASAD, J.

18th April, 2018
Js.

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE G. SHYAM PRASAD

W.P.No.8744 of 2018
(Per VRSJ)

18th April, 2018

Js.