* 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
* THE HON'BLE MS. JUSTICE J. UMA DEVI

+ W.P.NO.12871 of 2018

% Date: 19-04-2018

Between:

Municipal Corporation of Reajamahendravaram
Rep. by its Commissioner,
Seshayyammetta, Aryapuram,
Rajamahendravaram,
Andhra Pradesh -533 103.

…. Petitioner

And

1. Union of India, rep. by its Secretary (Revenue) North Block, New Delhi -110 001.
2. Additional Commissioner of Central Tax Visakhapatnam-II Commissionerate Port Area, Visakhapatnam -530035.

… Respondents

! Counsel for the Petitioner : Mr. C.V. Narasimham

^ Counsel for Respondent : Mr. Sri B. Narasimha Sarma Sr. S.C.

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> HEAD NOTE:

? Cases referred

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION No.12871 of 2018

ORDER: (Per VRS,J.)

The municipal corporation of Rajamahendravaram has come up with the above writ petition challenging an Order-in-Original passed by the 2nd respondent, demanding service tax on the advertisement tax collected by the municipality by branding the same as charges levied on sale of space or time for advertisement service.

2. Heard Mr. C.V. Narasimham, learned counsel for the petitioner and Mr. B. Narasimha Sarma, learned Senior Standing Counsel for the respondents.

3. The question as to whether the collection of advertisement tax would tantamount to the collection of service charges, upon the sale of space or time for advertisement, in respect of three previous assessment years, viz., 2006-07 to 2010-11, has already been directed by the CESTAT to be determined afresh, in the assessee's own case in Municipal Corporation of Rajamundry v. C.S.T[1]. The matter now stood remanded back to the original authority.

4. Therefore, when the original authority is called upon to redo the exercise in respect of three previous assessment years, it may not be possible to sustain the impugned Order-in-Original relating to the period 2011-12, as the same may lead to an inference that the original authority cannot do anything more. Therefore, we are of the considered view that the impugned order should also be set aside and the matter remanded

[1] (2017) 5 GSTC 78

back, so that the original authority takes a comprehensive view in relation to all the assessment years.

5. In view of the above, the writ petition is allowed, the impugned order is set aside and the matter is remanded back to the original authority.

6. In order to avoid conflicting views and multiplicity, the original authority shall take up the matter relating to all the assessment years including those for which a remand order has been passed by the CESTAT, then give an opportunity of hearing to the petitioner and pass appropriate orders in accordance with law.

7. As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE V. RAMASUBRAMANIAN

JUSTICE J. UMA DEVI

19th April, 2018
Js.

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION No.12871 of 2018

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Js.