

**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 MS. JUSTICE J. UMA DEVI**

W.P.No.13495, 13583, 14354 and 14405 of 2018

Date: 26-04-2018

Between:

M/s. Madireddy Narasimha Rao & Sons,
Ullithota Street, Main Road, Rajahmundry
Represented by its Proprietrix, Smt. Madireddy
Aishwarya Rajya Lakshmi, W/o Narasimha Rao
East Godavari District

... Petitioner

And

State of Andhra Pradesh, represented by its
Principal Secretary, Revenue (CT) Department,
Velagapudi, Amaravathi, Guntur District and 3 others

... Respondents

Counsel for the Petitioner : Ms. M.V.J.K. Kumar,

Counsel for Respondents : Mr. S. Suribabu, & Mr. Sk. Jeelani
Basha, special standing Counsel

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HON'BLE MS. JUSTICE J. UMA DEVI

Writ Petition Nos.13495, 13583, 14354 and 14405 of 2018

COMMON ORDER: *(per V. Ramasubramanian,J)*

Aggrieved by the dismissal of appeal against an Order of Assessment and an appeal against the penalty, the petitioner, who is a dealer under the APVAT Act, 2005 has come up with the above writ petitions.

2. Heard Mr. M.V.J.K. Kumar, learned counsel for the petitioner and Sri S. Suribabu and Sri Shaik Jeelani Basha, learned special standing counsel for the respondents.

3. When the appeals arising out of the order of assessment were posted for hearing, the authorized representative of the petitioner failed to turn up. Therefore, an order was passed on merits. But at the time of hearing of the appeals arising out of the penalty, the authorized representative appeared. However, it was of no avail, since the appeal arising out of the order of assessment had already been dismissed. Therefore, the appeals arising out of the penalty met with the same fate as the appeals arising out of the order of assessment. Hence, the petitioners are before this Court.

4. It is stated by the learned special standing counsel for the respondents that the authorized representative did not appear for hearing continuously on several occasions. The learned special standing counsel drew our attention to the dates on which notices were issued and the dates on which hearing was held.

5. The impugned orders themselves disclose that there was utter negligence on the part of the authorized representative. But the dealer need not be penalized for the negligence on the part of the authorized representative. We are of the considered view that one more opportunity can be given to the petitioner. If this opportunity is not made use of, the petitioner in all the writ petitions will not be entitled to any indulgence.

Therefore, all the writ petitions are allowed, the impugned orders are set aside and the matters remitted back to the Appellate Authority. The petitioners or their authorized representative shall appear before the Appellate Authority, on 21-05-2018 at 11.00A.M. without fail. If the date is not convenient to the Appellate Authority, he may inform the petitioner an alternative date in advance. On the said date, the petitioners or their authorized representative shall appear. After hearing them, the Appellate Authority shall pass orders afresh. If the petitioners fail to make use of this opportunity, the Appellate Authority can proceed to pass orders on merits and the petitioners will not be entitled to any more indulgence.

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

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

Date: 26-04-2018

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