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

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

WRIT PETITION Nos.13754 AND 13798 OF 2018

Date:30.04.2018

WRIT PETITION No.13754 OF 2018:

Between:

M/s.Manjunatha Trades New Firm, Proddatur,
Kadapa Dist., Rep.by its Proprietor.

...Petitioner

Vs.

The Commercial Tax officer-II, Proddatur,
Kadapa District and others

.. Respondents

AND

WRIT PETITION No.13798 OF 2018:

Between:

M/s.Om Oil Industries, Proddatur, Kadapa Dist.,
Rep. by its Proprietor

...Petitioner

Vs.

The Commercial Tax officer-II, Proddatur,
Kadapa District and others

.. Respondents

For Petitioners : Mr.G.Narender Chetty

For Respondent : Mr.Shaik Jeelani Basha and
Mr.S.Suribabu

Gist :

Head Note :

Cases Referred :

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE MS.JUSTICE J. UMA DEVI

WRIT PETITION NoS.13754 AND 13798 OF 2018

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

The petitioners, both of whom are Dealers under the Andhra Pradesh Value Added Tax Act, 2005, have come up with the above writ petitions challenging the orders of assessment passed under the Act.

2. Heard Mr.G.Narender Chetty, learned counsel for the petitioners and Mr.S.Suribabu as well as Mr.Shaik Jeelani Basha, learned Special Standing Counsel for the respondents.

3. The impugned orders are challenged on the short ground that show cause notices as well as personal hearing in both these cases were granted by one Officer, but the impugned orders were passed by a different Officer. In view of the limited nature of the grievance made out by the petitioners, we directed the learned Special Standing Counsel to find out whether the said allegation was true.

4. After checking up, both the learned Special Standing Counsel reported that show cause notices were issued and personal hearing was conducted by a different Officer. But, the person now holding the post of Commercial Tax Officer has passed the impugned orders, after considering the objections and after going through the entire file. Therefore, it is contended by the learned Special Standing Counsel that when an order of assessment is passed on the basis of material available on record, the case will not come under the category of violation of the principles of natural justice.

5. But, we do not think so. If a case is heard by one Bench in a Court of Law and the judgment is delivered by another Bench without

any further hearing, the same would tantamount to a judgment being delivered without hearing. The very purpose of personal hearing is to enable the Assessing Officer to either get enlightened or to enlighten the Assessee about the nature of the claim made by them. It is actually a two way communication. It has been repeatedly held that wherever a request is made for personal hearing, but the same was not granted, the orders passed without the grant of personal hearing are in violation of the principles of justice. Therefore, there is no use in contending that someone else has already heard the case and passed on the information to the present incumbent.

6. In view of the above, the writ petitions are allowed, the impugned orders are set aside and the Officer now holding the post is directed to give an opportunity of personal hearing to the petitioners. After granting the opportunity of personal hearing, the Assessing Officer shall pass appropriate orders in accordance with law.

7. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

April 30, 2018
KTL