* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms. JUSTICE J.UMA DEVI

+ <u>Contempt Case No.2107 of 2018</u>

% Date: 19-9-2018

M/s Siddhartha Tiles and Sanitary Pvt. Ltd.,
Regd. Head Office: D.No.6/118, Gujara Road,
Mudinepalli-521 325, Krishna District, A.P.
... Petitioner

Vs.

$ Sri B.Vinod Kumar, Commercial Tax Officer,
Gudivada Circle, Gudivada, Krishna District, A.P.
... Respondent

! Counsel for Petitioner: Mr. Karthik Ramnath,
representing Mr. K.Raji Reddy

Counsel for Respondent: Mr. S.Suri Babu,
Standing Counsel

< Gist:

> Head Note:

? Cases referred:
Nil.

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Judgment: (per V.Ramasubramanian, J.)

Complaining of wilful disobedience of the order passed by this Court, the dealer under the Andhra Pradesh Value Added Tax Act, 2005, has come up with the above contempt petition.

2. Heard Mr. Karthik Ramnath, learned counsel for the petitioner and Mr. S.Suri Babu, learned Special Standing Counsel for the respondent.

3. In W.P.No.14674 of 2017, the petitioner challenged an order of assessment passed under the Central Sales Tax Act, 1956, rejecting the C-Forms produced by the petitioner on the ground that they were manually generated. The writ petition was allowed by an order dated 28-4-2017. The operative portion of the order reads as follows:

> "6. In view of the above, the writ petition is allowed, the impugned order is set aside and the matter is remanded back. The respondent shall receive the manually generated C-Forms, have the genuineness of the C-Forms verified with the concerned authorities in Puducherry, and after giving an opportunity to the petitioner, pass orders afresh."

4. It appears that pursuant to the said order, the respondent had the genuineness of the manually generated C-Forms produced by the petitioner, verified with the Deputy Commercial Tax Officer, Yanam, Pondicherry. By a letter dated 26-9-2017, the Deputy Commercial Tax Officer, Yanam,

confirmed that the manually generated C-Forms were issued by his office. But he qualified his statement with some more additional information. It will be useful to extract the letter dated 26-9-2017 issued by the Deputy Commercial Tax Officer, Yanam, to the Deputy Commissioner (Commercial Tax), Puducherry:

> "With reference to the letter cited, I am to submit that the M/s. Balaji Ceramic Tiles, Yanam (TIN 34280007487) is an assessee in the books of the Deputy Commercial Tax Officer, Yanam. The registration of the dealer has been cancelled with effect from 31.03.2013.
>
> The following C-Forms are verified and found to be manual C-Forms issued by this Division to the dealer on 15.06.2009 as per the C-Form issue register.

C-Form No.	Date of Issue	C-Form Book Sl.No.
PY/CC 490773	15.06.2009	PY/CC 490751-90775
PY/CC 490774	15.06.2009	
PY/CC 490775	15.06.2009	

> It is submitted that the dealer has declared a purchase of Rs.79,662/- and a sale turnover of Rs.1,50,900/- for the year 2012-13 as per the online returns filed. The dealer has not reported the purchases made against the above said C-Forms."

5. In view of the qualified acceptance made by the Pondicherry Authority, the respondent herein passed an order dated 01-02-2018 refusing to accept the C-Forms and also holding that these C-Forms are fictitious. Hence, the above contempt petition.

6. While we do not approve the action of the respondent in holding the C-Forms to be fictitious, despite the confirmation given by the Pondicherry Authorities, it is not possible for us to get into more details about the turnover reflected the eligibility etc., in a contempt petition.

7. As rightly conceded by the learned counsel for the petitioner, our directions comprised of four parts, the first part directing the respondent to receive the manually generated C-Forms, the second part directing the verification of the genuineness of such C-Forms, the third part directing an opportunity to be given to the petitioner and the fourth part directing the respondent to pass orders afresh. There is no dispute that the first three parts of the directions have been complied with. In respect of the last part, the complaint is about the manner in which it was complied with and not that the fourth part was not at all complied with.

8. When an air of doubt is created about the validity of an order passed and as to whether it is in tune with the order passed by this Court, it is better for the Court to err on the wrong side, leaving it open to the petitioner to challenge the fresh proceedings, rather than seek to punish the respondent for contempt. Contempt is a penal action, for wilful disobedience. Even if disobedience is established, punishment is not proper unless it is held to be wilful. Therefore, leaving it open to the petitioner to challenge the fresh order, the contempt case is closed. Pending applications, if any, shall stand closed.

V.RAMASUBRAMANIAN, J.

J.UMA DEVI, J.

19th September, 2018.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms. JUSTICE J.UMA DEVI

Contempt Case No.2107 of 2018
(per VRS, J.)

19th September, 2018.
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