

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

* HONOURABLE SRI JUSTICE V.RAMASUBRAMANIAN
AND

* HONOURABLE SRI JUSTICE P. KESHA RAO

+ W.P.No.40980 of 2018

% Date: 19-12-2018

Between:

M/s. Kuldevi Fancy Stores, D.No.13/49,
D.C.M.S. Road, Kamala Nagar,
Ananthapuramu, Ananthapuramu District, A.P.,
Rep. by its Proprietor Hamar Singh.

.... Petitioner

And

1. The Deputy Commercial Tax Officer-I, O/o. Commercial Tax Officer,
Ananthapuramu-II Circle, PAR Heights, Gooty Road,
Ananthapuramu, Ananthapuramu District A.P.
2. The Commercial Tax Officer, Ananthapuramu-II Circle, PAR Heights,
Gooty Road, Ananthapuramu, Ananthapuramu District, A.P.
3. The State of Andhra Pradesh, rep. by the Principal Secretary to
Government, Revenue (CT) Department, A.P. Secretariat Buildings,
Velagapudi, Guntur District, A.P.

... Respondents

! Counsel for the Petitioner : Mr. G. Narendra Chetty

^ Counsel for Respondents 1 & 2 : Mr. S. Suri Babu Spl. S.C.

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> HEAD NOTE:

? Cases referred

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN
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ORDER: (Per VRS,J)

Challenging a confiscation order passed by the 1st respondent, under Section 43(1)(c) of the A.P. VAT Act, 2005 read with Rule 53(1) of the A.P. VAT Rules, the dealer has come up with the above writ petition.

2. Heard Mr. G. Narendra Chetty, learned counsel for the petitioner and Mr. S. Suri Babu, learned Special Standing Counsel for the respondents.

3. As per the impugned order, the petitioner failed to respond to the show cause notice and that the dealer did not cooperate.

4. In the light of the positive stand taken by the petitioner in the affidavit in support of the writ petition that the show cause notice was never served on them, we directed the learned Special Standing Counsel to look into the files whether the show cause notice was served on the petitioner. Today, Mr. S. Suri Babu, learned Special Standing Counsel informed the Court that since show cause notice was sent by ordinary post, there was no proof of delivery. In such circumstances, the petitioner deserves one opportunity.

5. Therefore, the writ petition is allowed and the impugned order is set aside. The petitioner shall treat the impugned order itself as a show cause notice and submit their objections on or before 07th January, 2019. Thereafter, the respondents shall fix a date for personal hearing, on which date the petitioner shall produce all documents in support of their case. Thereafter, the Assessing Officer shall pass orders afresh. There will be no order as to costs.

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

V. RAMASUBRAMANIAN, J.

P. KESHA RAO, J.

19th December, 2018
Js.



HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
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Js.