***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 No.43348 OF 2018

% Date:03.12.2018

Between:

M/s. Rama Sai Traders,
Sangadigunta, Guntur,
Rep. by its Proprietor.

… Petitioner

v.

$ The Appellate Deputy Commissioner (CT),
Tirupathi and others.

.. Respondents

! For Petitioner : Mr. G. Narendra Chetty

^ For Respondents : Mr. Shaik Jeelani Basha

< Gist :

> Head Note :

? Cases Referred : Nil

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WRIT PETITION No.43348 OF 2018

ORDER: ***(Per V. Ramasubramanian, J)***

Aggrieved by an order passed by the Appellate Deputy Commissioner in an appeal arising under the Andhra Pradesh Value Added Tax, Act, the Dealer has come up with the above appeal.

2. Heard Mr. G. Narendra Chetty, learned counsel for the petitioner and Mr. Shaik Jeelaani Basha, learned Special Standing Counsel for the respondents.

3. As against an order of assessment dated 10.10.2017, the petitioner filed an appeal. In fact, the appeal was actually a second round. In the first round, the petitioner succeeded and the matter got remanded. But, the Assessing Officer again passed an order, which forced the petitioner to file a statutory appeal. Before the appellate authority, the petitioner filed a notes running to about 18 pages together with written submission running to about 5 pages, along with innumerable documents and a lot of citations. Without even looking at any one of the pages of the 18 pages notes, and any one of the points raised in the written submissions running into 5 pages and without looking into any one of the documents or citations relied upon by the petitioner, the first appellate authority dismissed the appeal. Therefore, the petitioner has come up with the above writ petition.

4. In other words, the claim of the petitioner is that non-consideration of any of the points raised in the writ submissions, non-consideration of the documents submitted by him and non-

consideration of any of the citations relied upon by him tantamount to violation of principles of natural justice, requiring intervention under Article 226 of the Constitution of India without directing the petitioner to avail the alternative remedy of appeal.

5. But, we are unable to agree. Traditionally, the principles of natural justice revolved primarily around (1) the failure to provide an opportunity and (2) a person being a judge in his own cause. Non-consideration of every material, may show non-application of mind, and arbitrary exercise of power. But, every non-application of mind and every arbitrary exercise of power cannot be brought within the purview of violation of natural justice. The very reason why a second appeal is provided to the A.P. VAT Appellate Tribunal is to cure such defects. Therefore, the petitioner should avail the alternative remedy of appeal in cases of this nature.

6. Hence, leaving it open to the petitioner to avail the alternative remedy, the writ petition is dismissed. However, if there is a very small delay in filing an appeal before the AP VAT Tribunal, the same shall be condoned, due to the pendency of the writ petition before this Court.

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

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

December 03, 2018
KTL