

***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 SRI JUSTICE P. KESHA VA RAO

+ WRIT PETITION No.44859 OF 2018

% Date:13.12.2018

Between:

M/s.Giri Traders, Sangam,
SPSR Nellore District, Rep. by its Proprietor.

... Petitioner

v.

\$ The Appellate Deputy Commissioner,
Tirupati, Chittoor District, A.P.

.. Respondents

! For Petitioner : Mr. MVJK Kumar

^ For Respondents : Mr. Shaik Jeelani Basha
Spl.Standing Counsel for CT

< Gist :

> Head Note :

? Cases Referred : Nil

C/15

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE P. KESHA VA RAO

WRIT PETITION No.44859 OF 2018

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

Aggrieved by the dismissal of a statutory appeal under the Andhra Pradesh Value Added Tax Act, 2005, for non prosecution, the Dealer has come up with the above writ petition.

2. Heard Mr. M.V.J.K. Kumar, learned counsel for the petitioner and Mr. Shaik Jeelani Basha, learned Special Standing Counsel for the respondents.

3. It appears from the impugned order that the case was posted for hearing on 15.05.2018. The counsel for the petitioner sought adjournment by (15) days. The case was adjourned to 29.06.2018. A counsel filed Vakalat on the said date and third opportunity was given. But, the petitioner did not appear even on the third and fourth opportunities. Therefore, the appeal was dismissed.

4. The reasons for non-appearance are explained by the petitioner in paragraph Nos.3.05 and 3.06 of the affidavit.

5. Though the cause stated in the aforesaid paragraphs cannot be said to be wholly sufficient, we are of the view that the appeal being the first appeal, the petitioner deserves one opportunity.

6. Therefore, the writ petition is allowed, the impugned order is set aside and the matter is remanded back to the first appellate authority. The first appellate authority shall fix a date of hearing, in

the first week of January, 2019. But, the notice fixing the date of hearing shall be issued and served on the petitioner before the end of this month. On the date so fixed for hearing, the petitioner shall positively appear. Thereafter, the appellate authority can pass orders on merits and in accordance with law.

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

V. RAMASUBRAMANIAN, J

December 13, 2018

Note:

Furnish CC by tomorrow.

B/o.KTL

P. KESHA VA RAO, J

