THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

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THE HON'BLE SRI JUSTICE P. KESHAVA RAO

WRIT PETITION No.11664 of 2019

ORDER: (Per Hon'ble Sri Justice V. Ramasubramanian)

Seeking a declaration that the failure of the respondents to exercise the jurisdiction and powers under Section 31(4)(a) of the Telangana VAT Act, 2005 and the power under Rule 42 of the Rules as illegal, the dealer has come up with the above writ petition.

2. Heard Mr. N. Kodandarama Rao, learned counsel for the petitioner. Mr. T. Vinod Kumar, learned Special standing counsel, takes notice for the respondents.

3. The prayer in the writ petition is simply for a declaration that the failure of the respondents to apply a particular provision is illegal. In other words, the prayer in the writ petition is an indirect challenge to an order of assessment dated 23.03.2015 passed by the Assessing Officer under the CST Act, 1956. As against the said assessment order, the petitioner filed a statutory appeal before the Appellate Deputy Commissioner and the said appeal was already dismissed on 10.05.2018. This order has attained finality. The petitioner had an alternative remedy of filing of second appeal before the Telangana VAT Appellate Tribunal. But after keeping quiet for more than a year from the date of dismissal of the first appeal, the petitioner has come up with the above writ petition not even challenging the order of assessment. It is well settled that what cannot be done directly cannot be done indirectly.

Therefore, the writ petition deserves to be dismissed and accordingly dismissed. Consequently, pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

June 17, 2019
DSK