APHC010059702024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3508]**
(Special Original Jurisdiction)

WEDNESDAY ,THE NINETEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

WRIT PETITION NO: 3310/2024

Between:

M/s.shuchi Filling Station **...PETITIONER**

AND

The Union Of India and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. M V J K KUMAR

Counsel for the Respondent(S):

1. Y V ANIL KUMAR (Central Government Counsel)
2. GP FOR COMMERCIAL TAX

The Court made the following Order:
(per Hon'ble Sri Justice R. Raghunandan Rao)

Heard Sri M.V.J. Kumar, learned counsel appearing for the petitioner, Y.V. Anil Kumar and the learned Government pleader for Commercial Taxes, appearing for the respondents.

2. The petitioner, who is registered under the A.P. Value Added Tax Act, 2005 (for short 'the Act'), was subjected to audit and subsequent assessment by the Assistant Commissioner, Ananthapuram-I Circle, Ananthapuram, for the tax period July, 2021 to 07.12.2022. The petitioner has now challenged the impugned assessment order dated 07.09.2023, on the ground that the said assessment order is in violation of the provisions of the Act, as well as the judgments of the erstwhile High Court of Andhra Pradesh in the case of **M/s. Sri Balaji Flour Mills vs. Commercial Tax Officer-II, Chittoor and Ors.**[1]**; Noida Entrepreneurs Association vs. Noida and Ors.,**[2] and **M/s. Sri Venkata Satyanarayana Stone vs. Commercial Tax Officer**[3].

3. The material placed before this Court shows that the Assistant Commissioner, Ananthapuram-I Circle, Ananthapuram, was only given authorization to carry out assessment of the petitioner for the relevant tax period. There was no authorization given to carry out audit of the books and accounts of the petitioner. In similar circumstances, the erstwhile High Court of Andhra Pradesh, in the aforesaid judgments had held that separate proceedings have to be given for conduct of audit and conduct of assessment proceedings and in the absence of any one of the authorizations, the entire process would have to be set aside.

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[1] **40 VST 150**
[2] **(2011) 6 SCC 508**
[3] **53 APSTJ 45**

4. Accordingly, following the said judgments, the impugned assessment order, dated 07.09.2023, is set aside and the matter is remanded back to the territorial Assessing Officer, having jurisdiction over the petitioner to carry out necessary assessments and consequent proceedings. Needless to say, the period between the date of the impugned assessment order and the date of receipt of this order, shall be excluded for the purpose of limitation.

5. Accordingly, the writ petition is allowed. There shall be no order as to costs. As a sequel, pending miscellaneous applications, if any, shall stand closed.

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R. RAGHUNANDAN RAO,J

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MAHESWARA RAO KUNCHEAM, J

RJS

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

&

HON'BLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

W.P.No.3310 of 2024

(per Hon'ble Sri Justice R. Raghunandan Rao)

19.02.2025

RJS