IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(Special Original Jurisdiction)

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

PRESENT

THE HONOURABLE SRI JUSTICE R. RAGHUNANDAN RAO
AND
THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION NO: 2114 OF 2025

Between:

M/s.Sri Venkata Sai Filling Station, Sy.No.145-2B, Main Road, Kalludevarahalli (Village) Anantapur District - 515 812. Rep. by its Proprietor Mr.Pinjari Nazeer Basha.

...PETITIONER

AND

1. The Assistant Commissioner(St), Kalyanadurgam Circle, Anantapur District.
2. The Deputy Commissioner (CT), Anantapur Division, Anantapur.
3. The State of Andhra Pradesh, Rep. its Principal Secretary, (Commercial Taxes Department), A.P. Secretariat, Velagapudi, Amaravati. Guntur District, Andhra Pradesh.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue ***WRIT OF MANDAMUS*** or any other appropriate Writ or Order or direction declaring the action of the 1st Respondent in passing the Proceedings dated 28.06.2023, without valid authorisation issued by the 2nd Respondent for the tax period 2019-20 to 2022-23, under the AP VAT Act, 2005 in Form VAT 305 dated 28.06.2023, without granting sufficient opportunity and not even serving Show Cause Notice to the Petitioner, passing the proceedings in a Composite Order, are arbitrary, contrary to the

provisions of the AP VAT Act, 2005, without jurisdiction and Rule of law and consequently set aside the proceedings of the 1st Respondent dated 28.06.2023 in Form VAT 305, as null and void.

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of the Proceedings of the 1st Respondent dated 28.06.2023 in Form VAT 305, passed for the tax period 2019-20 to 2022-23 under the AP VAT Act, 2005, pending disposal of the above Writ Petition, as otherwise, the Petitioner will be put to severe loss and hardship.

Counsel for the Petitioner: SRI SHAIK JEELANI BASHA

Counsel for the Respondent Nos. 1 to 3: GP FOR COMMERCIAL TAX

The Court made the following: ORDER

APHC010512752024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3488]**
(Special Original Jurisdiction)

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

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION NO: 2114/2025

Between:

M/s.sri Venkata Sai Filling Station, ...**PETITIONER**

AND

The Assistant Commissioner (ST) and Others ...**RESPONDENT(S)**

Counsel for the Petitioner:

1. SHAIK JEELANI BASHA

Counsel for the Respondent(S):

1. GP FOR COMMERCIAL TAX

2.

The Court made the following Order:

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

Heard Sri Shaik Jeelani Basha, learned counsel appearing for the petitioner, and learned Government pleader for Commercial Tax, appearing for respondents 1 and 2.

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, Sales Tax, Kalyanadurgam Circle, Anantapur District, for the tax period 2019-20 to 2022-23. The petitioner has now challenged the impugned assessment order dated 28.06.2023, 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 Commercial Tax Officer, Kalyanadurgam Circle, 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 28.06.2023, 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.

SD/- K. TATA RAO
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Assistant Commissioner(ST), Kalyanadurgam Circle, Anantapur District.
2. The Deputy Commissioner (CT), Anantapur Division, Anantapur.
3. The Principal Secretary, (Commercial Taxes Department), State of Andhra Pradesh Secretariat, Velagapudi, Amaravati, Guntur District, Andhra Pradesh.
4. One CC to Sri Shaik Jeelani Basha, Advocate [OPUC]
5. Two CCs to GP for Commercial Tax, High Court of Andhra Pradesh. [OUT]
6. **Three CD Copies.**

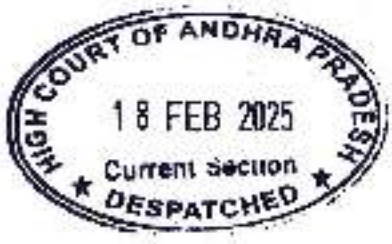
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HIGH COURT

DATED:05/02/2025

ORDER

WP.No.2114 of 2025



ALLOWING THE WRIT PETITION
WITHOUT COSTS