(2013) 08 AP CK 0025

In the Andhra Pradesh High Court

Case No : Writ Petition No. 223922 of 2013

Dankuni Steels Limited APPELLANT

Vs

Deputy Commissioner (CT) and Another RESPONDENT

Date of Decision : 14-08-2013

Acts Referred:

Citation : (2013) 57 APSTJ 104

Hon'ble Judges : G. Rohini, J;Challa Kodanda Ram, J

Bench : Division Bench

Advocate : S. Dwarakanath, for the Appellant; B. Venkatadri, Special Standing Counsel for Commercial Taxes, for the Respondent

Judgement

G. Rohini, J.—The petitioner company which is the manufacturer and seller of Ferro Manganese and Pig Iron is an assessee on the rolls of the Commercial Tax Officer, Rajam Circle. For the year 2006-07, the petitioner was assessed under the Central Sales Tax Act by order dated 9.7.2009. However, the 1st respondent issued a show-cause notice dated 20.06.2011 proposing to revise the assessment in exercise of the powers conferred u/s 32(2) of the A.P. Value Added Tax Act, 2005. After considering the petitioner''s explanation, the 1st respondent by order dated 6.7.2013 partly confirmed the revision and determined the additional liability of the petitioner as Rs. 4,83,13,694/-. In pursuance thereof, the 2nd respondent by proceedings dated 8.7.2013 called upon the petitioner to pay the said amount. Aggrieved by the same, the present writ petition is filed. We have heard the learned counsel for both the parties.

2. The impugned order is assailed by the petitioner primarily on the ground that it is in violation of the principles of natural justice. It is pleaded by the petitioner that the officer who passed the impugned order dated 6.7.2013 was not in the office on the date of the personal hearing which took place on 15.02.2012. Thus it is contended that the very purpose of final hearing is defeated and therefore the impugned order is vitiated and is liable to be set aside on that ground alone.

3. The fact that the personal hearing took place on 15.02.2012 and the matter was heard by an officer other than the officer who passed the impugned order dated 6.7.2013 has not been disputed by the learned Special Standing Counsel for Commercial Taxes appearing for the respondents. It is explained by the learned Standing Counsel that a new incumbent has succeeded to the office of the Deputy Commissioner (CT) after the petitioner was heard in person on 15.2.2012 and he passed the impugned order dated 6.7.2013.

4. The law is well-settled that the functions of hearing and deciding should not be bifurcated. The principle "one who decides must hear" has been reiterated time and again by the Courts (vide Gullapalli Nageswara Rao and Others Vs. Andhra Pradesh State Road Transport Corporation and Another, and Automotive Tyre Manufacturers Association Vs. The Designated Authority and Others,

5. In the light of the settled legal position, it can be concluded without any hesitation that the impugned order dated 6.7.2013 is in violation of the principles of natural justice. Accordingly, the impugned order dated 06.07.2013 as well as the consequential order dated 08.07.2013 are hereby set aside and the Writ Petition is disposed of at the stage of admission leaving it open to (sic) respondents to take appropriate steps as permissible under law. No cost. Consequently, Miscellaneous Petitions, if any, pending in the writ petition shall stand closed.