(2005) 07 AP CK 0072

In the Andhra Pradesh High Court

Case No : Writ Petition No. 14418 of 2005

K.S. Biyani and Co. — APPELLANT

Vs

Authority for Advance Ruling under A.P. VAT Act and Another — RESPONDENT

Date of Decision : 05-07-2005

Acts Referred:

Andhra Pradesh Value Added Tax Act, 2005 — Section 33, 67, 67(1), 67(2), 67(3)

Citation : (2005) 142 STC 111

Hon'ble Judges : Bilal Nazki, Acting C.J.;G. Chandraiah, J

Bench : Division Bench

Advocate : M.V.J.K. Kumar, for the Appellant; Government Pleader for Commercial Taxes, for the Respondent

Final Decision : Dismissed

Judgement

Bilal Nazki, Ag. C.J.

1. This is a writ petition challenging the order of the Authority for Clarification and Advance Rulings. The writ petition has been filed on the sole ground that the order of Authority for Clarification and Advance Rulings created u/s 67 of the A.P. Value Added Tax Act, 2005 is not appealable. The Authority while passing the impugned order has stated in a note appended to the order that the appeal against these proceedings can be filed before the A.P. Sales Tax Appellate Tribunal within thirty days of this ruling.

2. The learned Counsel for the petitioner submits that such a note would not confer jurisdiction on the Sales Tax Appellate Tribunal, A.P., Hyderabad, as the statute does not make such orders appealable. He refers to Section 33 of the A.P. Value Added Tax Act, 2005. This section lays down that the dealer may file appeal in cases specified u/s 33, and the learned Counsel would contend that an order u/s 67 of the Act is not mentioned in Section 33. It appears that Section 67 is part of Chapter IX of the A.P. Value Added Tax Act and is part of general provisions of the Act. After a bare perusal of the section, it appears that it lays

down the complete mechanism as far as the Authority for Clarification and Advance Rulings is concerned. It is constituted u/s 67(1) by the Commissioner and an application can be entertained by it under Sub-section (2) of Section 67 and Sub-section (3) lays down that the order of the Authority would be binding on the applicant who seeks the clarification. It would also be binding on all officers other than the Commissioner and the order passed under Sub-section (2) of Section 67 on the motion of a dealer himself would be final unless an appeal is filed before the Sales Tax Appellate Tribunal within thirty days of the ruling in the manner prescribed. The proviso to Sub-section (4) of Section 67 makes it abundantly clear that any order passed by the Authority u/s 67 is appealable before the Sales Tax Appellate Tribunal and the appeal must be filed within the period of thirty days of the ruling.

3. For these reasons, we do not find any merit in the writ petition. It is accordingly dismissed. However, the petitioner is at liberty to file an appeal before the appropriate forum.

