(2017) 04 AP CK 0028

In the Andhra Pradesh High Court

Case No : 13032 of 2017

M/S. Kurnool Auto Distributors — APPELLANT

Vs

The State Of Andhra Pradesh — RESPONDENT

Date of Decision : 17-04-2017

Acts Referred:

Citation : (2017) 04 AP CK 0028

Hon'ble Judges : V. Ramasubramanian, J. Uma Devi

Bench : DIVISON BENCH

Advocate : P. Girish Kumar, S. Suribabu

Judgement

1. Aggrieved by an order of assessment passed under the Andhra Pradesh Value Added Tax Act, 2005, the dealer has come up with the above writ petition.

2. Heard Mr. P. Girish Kumar, learned counsel for the petitioner and Mr. S. Suribabu, learned standing counsel for the respondents.

3. Obviously the order of assessment is an ex parte order as can be seen from the following:

..Accordingly, a show cause notice, called for objections, if any, was issued to the dealers, on 30.01.2017, and the same was got served on the dealers on 30.01.2017. In response the notice the dealer filed a letter dt. 03.02.2017 received in this office on 07.02.2017 requesting time for 15 days to file written objections and also to represent the case in person. The dealers did not file any objections nor requested further time, though the time allowed was expired. IT is construed that the dealers have no objections to file, and accepted the proposed tax. Hence, the proposed tax in the show cause notice is confirmed as shown below

4. It is true that the petitioner did not file written objections within 15 days as requested by him. But the Assessing Officer was wrong in saying that the petitioner failed to represent the case in person, since there is no indication of

any notice having been served for personal hearing. Therefore, we are of the considered view that the petitioner deserves one opportunity.

5. Hence, the writ petition is allowed, the impugned order is set aside and the matter is remitted back. The petitioner shall file his objections on or before 07-05-2017. Thereafter, the 2nd respondent shall fix a date for the personal hearing, on which date the petitioner shall produce all relevant documents. Thereafter, the 2nd respondent may pass appropriate orders in accordance with law.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.