(2017) 04 AP CK 0033

In the Andhra Pradesh High Court

Case No : 12705 of 2017

M/s. Sri Jaganmatha Industries	APPELLANT
Vs	
The State of A.P. and 2 others	RESPONDENT

Date of Decision : 18-04-2017

Acts Referred:

Citation : (2017) 04 AP CK 0033

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

Bench : DIVISON BENCH

Advocate : P.Balaji Varma, S.Suri Babu

Judgement

1. Aggrieved by an order of assessment passed under the Andhra Pradesh Value Added Tax Act, 2005, on the ground that they could not avail the opportunities granted to them, due to unfortunate circumstances, the dealer has come up with the present writ petition.

2. Heard Mr. P.Balaji Varma, learned counsel for the petitioner and Mr. S.Suri Babu, learned Standing Counsel for the Department.

3. Drawing our attention to the findings recorded in the impugned order, it is contended by Mr. S.Suri Babu, learned Special Standing Counsel, that the petitioner failed to avail every opportunity granted to them at every stage and that therefore no sympathy can be shown to the petitioner.

4. Though the contention of the learned Special Standing Counsel cannot be easily discarded, it is found from the impugned order that at least the statement of the petitioner that the business operations are closed down, is found to be true. It appears that the authorization for the audit was issued in December, 2014. The petitioner claims to have closed the operations in February, 2014. Nevertheless, he was present in April, 2015 when the audit was conducted.

5. Therefore, this does not appear to be a case of willful evasion or avoidance of participating in the proceedings. Therefore, in view of the statement that the

business is already closed down, we are of the considered view that one more opportunity can be granted to the petitioner.

6. Therefore, the writ petition is allowed, the impugned order is set aside and the petitioner is directed to appear before the 3rd respondent, on 08-5-2017. On that date the petitioner shall file their objections as well as produce whatever records on which they rely. Thereafter, the 3rd respondent may pass order in accordance with law. In the event of the petitioner not appearing before the 3rd respondent either on the day fixed hereunder or on any subsequent date fixed by the 3rd respondent, the petitioner will not be entitled to one more opportunity. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.