

[NON-REPORTABLE]

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTON**

Civil Appeal No. 7768 OF 2021

State of Andhra Pradesh & Ors. .. Appellants

Versus

S. Pitchi Reddy .. Respondent

With

Civil Appeal No.7771 of 2021

State of Andhra Pradesh & Ors. ..Appellants

Versus

B. Rama Koteswara Rao ..Respondent

With

Civil Appeal No.7770 of 2021

State of Andhra Pradesh & Ors. ..Appellants

Versus

S. Pitchi Reddy ..Respondent

With

Civil Appeal No.7769 of 2021

State of Andhra Pradesh & Ors.

..Appellants

Versus

S. Pitchi Reddy

..Respondent

J U D G M E N T

M. R. Shah, J.

1. Feeling aggrieved and dissatisfied with the impugned Judgment and Orders passed by the High Court of Judicature at Hyderabad for the State of Telangana and State of Andhra Pradesh dated 13.11.2017 in Writ Petition No.37515 of 2017; Writ Petition No.37516 of 2017; Writ Petition No.37504 of 2017 and Writ Petition No.37498 of 2017 by which the High Court has allowed the said writ petitions preferred by the respondents herein – original assesseees and has quashed the respective assessment orders passed by the Assessing Officer – Commercial Tax Officer, Brodipet Circle, Guntur, the State of Andhra Pradesh and others have preferred the present appeals.

2. That the respective respondents are the registered dealers holding VAT Registration. The Assessing Officer passed the assessment orders for the respective assessment years and assessed the tax by order dated 25.07.2012. The particulars in a tabular form are as under:

Civil Appeal No.	Assessment Year	Assessed Tax	Date of Order
Civil Appeal No.7768 of 2021	2010-2011	9,10,608/-	25.07.2012
Civil Appeal No.7771 of 2021	2008-2009	7,07,031/-	25.07.2012
Civil Appeal No.7770 of 2021	2009-2010	10,73,119/-	25.07.2012
Civil Appeal No.7669-2021	2008-2009	10,25,321/-	25.07.2012

3. Feeling aggrieved and dissatisfied with the respective Assessment Orders, the dealers/assesses preferred the appeals before the Appellate Deputy Commissioner (CT), Guntur. The First Appellate Authority remanded the case to the Assessing Officer. Thereafter the Commissioner of Commercial Taxes exercised suo moto revisional powers vide its proceedings dated 27.07.2014 against the order by the First Appellate Authority remanding the

matter to the AO. The respective dealers submitted their objections. Pending the revisional proceedings before the Commissioner of Commercial Taxes, the Assessing Officer issued show cause notices for making fresh assessment orders consequent to the remand of the cases by the First Appellate Authority. The respective dealers submitted their objections, inter alia, to the effect that when the suo moto revisions are pending before the Commissioner, the Assessing officer has no jurisdiction to make a fresh assessment in pursuance of the remand order. Thereafter the Assessing Officer passed fresh assessment orders consequent upon the remand of the case by the First Appellate Authority. Instead of preferring an appeal/appeals before the First Appellate Authority against the fresh assessment orders, the dealers straight way filed writ petitions before the High Court and by impugned judgment and orders, the High Court has allowed the said writ petitions and quashed the fresh assessment orders, solely on the ground that pending suo moto revisional proceedings, the Assessing Officer ought not to have proceeded further with the fresh assessment.

4. Feeling aggrieved and dissatisfied with the impugned judgment and orders passed by the High Court quashing and setting aside the

fresh assessment orders, the State has preferred the present appeals. As per the Office Report, though served, nobody appears on behalf of the respondent(s). Therefore, the hearing is proceeded ex-parte.

5. Having heard learned counsel appearing for the State and considering the impugned judgment and orders passed by the High Court, we are of the opinion that the impugned judgment and orders passed by the High Court, quashing and setting aside the fresh assessment orders are unsustainable.

5.1 Firstly, the High Court ought not to have directly entertained the writ petitions challenging the fresh assessment orders. The respective dealers – assesseees ought to have availed the alternative remedy of appeals before the First Appellate Authority which were availed earlier when the earlier assessment orders were passed.

5.2 Secondly, because the fresh assessment orders were passed consequent upon the remand of the case by the First Appellate Authority pending the revisional proceedings against the order of remand, merely on that ground alone the fresh assessment orders could not have been set aside.

5.3 Nothing has been observed by the High Court on the merits of the fresh assessment orders. If the fresh assessment orders would have gone against the State, in that case the State would have been the aggrieved party and the State could have raised the objection that pending suo moto revisional proceedings against the order of remand, the Assessing Officer ought not to have proceeded further with the fresh assessments. However, in the present case the fresh assessments have gone against the respective dealers. Therefore, as such the respective dealers were required to prefer the appeals before the First Appellate Authority against the fresh assessment orders.

5.4 In view of the above, the judgment and orders passed by the High Court quashing and setting aside the fresh assessment orders in the writ petitions under Article 226 of the Constitution of India are unsustainable.

6. In view of the above and for the reasons stated above, all these appeals succeed. The judgment and orders passed by the High Court in Writ Petition No.37515 of 2017; Writ Petition No.37516 of 2017; Writ Petition No.37504 of 2017 and Writ Petition No.37498 of

2017 are hereby quashed and set aside. However, there shall be no order as to costs.

.....J.
(M. R. SHAH)

.....J.
(B.V. NAGARATHNA)

New Delhi,
January 3, 2022