<u>THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN</u>

AND

<u>THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY</u>

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<u>Writ Petition No.30097 of 2014</u>

<u>ORDER</u>: (per Hon'ble Sri Justice Ramesh Ranganathan)

Both Sri S.Dwarakanath, learned counsel for the petitioner, and Sri M.Govind Reddy, learned Special Standing Counsel for Commercial Taxes, would agree that, of the three issues which arose for consideration before the Assessing Authority, two of them i.e. levy of purchase tax under Section 4(4) of the Andhra Pradesh Value Added Tax Act (for short "the Act") on soya bean and restriction of input tax credit on purchase of soya bean and hexane from registered dealers corresponding to the sale of de-oiled cake, is covered by the judgment of this Court in ***KGF Cotton Private Limited vs. Assistant Commissioner***.

On the third issue, Sri S.Dwarakanath, learned counsel for the petitioner, would draw attention of this Court to the assessment order dated 30.08.2014 wherein the assessee requested that they be given credit to the input tax credit available at the end of May 2014 i.e. for Rs.2,98,85,393/-. The Assessing Authority, however, denied the request of the dealer and held that input tax credit was automatically carried forward to the next VAT 200 returns. Sri S.Dwarakanath, learned counsel for the petitioner, would submit that the dealer cannot be called upon to pay tax, when input tax credit is available to him; and the tax liable to be paid must necessarily be adjusted with the input tax credit available to the dealer.

Sri M.Govind Reddy, learned Special Standing Counsel for Commercial Taxes, would fairly state that, while the Assessing Authority cannot insist on the dealer paying tax when input tax credit is available to him, the matter should be remanded to the Assessing Authority to enable him to verify whether the petitioner has input tax credit available for adjustment against their tax liability.

The impugned order is set aside, and the matter is remanded to the Assessing Authority to pas an order afresh in the light of the judgment of this Court in ***KGF Cotton Private Limited***[1]. The Assessing Authority shall also verify the input tax credit available to the assessee, and adjust it against their tax liability.

The Writ Petition is, accordingly, disposed of. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M. SATYANARAYANA MURTHY, J

Date:30.11.2015

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THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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