HON'BLE SRI JUSTICE R. SUBHASH REDDY

AND

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.5047 of 2005

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ORDER : (per Hon'ble Sri Justice R.Subhash Reddy)

The petitioner is a Limited Company, incorporated under the provisions of the Companies Act, 1956 and running the residential hostels and also providing boarding and lodging facilities to the students who stay in their hostels, studying in its sister concern educational institutions, by name 'Vignan Tutorials' and 'Vignan Cooperative Junior College'.

2. In this writ petition, the petitioner has questioned the assessment orders dated 2.3.2005 vide proceedings in Case No.22/2004-05, issued by the Assistant Commissioner (CT) (Int), Guntur-II Division, Guntur, determining the tax payable by the petitioner at Rs.1,27,583/- for the assessment year 2001-02.

3. When the matter is called for hearing, it is submitted by the learned counsel for petitioner as well as the learned Standing Counsel for Commercial Taxes that this writ petition is squarely covered to be allowed in terms of the earlier judgment in GOWTHAM RESIDENTIAL JUNIOR COLLEGE, VIJAYAWADA & OTHERS Vs. THE COMMERCIAL TAX OFFICER, BENZ CIRCLE, VIJAYAWADA & OTHERS.

4 . We have perused the aforesaid judgment, wherein, a Division Bench of this Court, by placing reliance on earlier judgments of Hon'ble Supreme Court, has held that purchase of food items by educational institutions for the purpose of supplying to students,

cannot be construed as business activity for imposing tax in exercise of powers under Section 6-A of the APGST Act. In that view of the matter, this writ petition is covered to be allowed in terms of the aforesaid judgment.

5. Accordingly, the writ petition is allowed by quashing the impugned assessment order dated 02.03.2005. If the petitioner has already paid 50% of the disputed tax as per the interim orders of this Court, it is open for the petitioner to file appropriate application before the authorities concerned along with a copy of this order, seeking refund of such amount and, if any such application is filed, the same may be considered and disposed of expeditiously. No order as to costs.

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

JUSTICE R. SUBHASH REDDY

Dr. JUSTICE B.SIVA SANKARA RAO

20.04.2015.

Msr

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