**HON'BLE SRI JUSTICE G.CHANDRAIAH**

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**HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

**W.P. No. 32356 of 2015**

**DATE: 30-10-2015**

Between:

M/s. Sri Shiva Sai Teleservices .. Petitioner

and

The Commercial Tax Officer

and two others .. Respondents

**O R D E R:-** (per Hon'ble Sri Justice G. Chandraiah)

This writ petition is filed for the following substantive relief:

> *"….to issue a writ, order or direction one in the nature of writ of mandamus declaring the endorsement dated 30.05.2015 intimating the orders of the 2nd respondent in R.C.No. A3/735/2006, dated 22.05.2015 rejecting the refund claim of Rs.3,25,641/- for the period 2008-2009 based on the credit return filed for the tax period March, 2009 for want of assessment Order in VAT 306, as bad, illegal and arbitrary and consequently set aside the orders of the 2nd respondent in RC.No.A3/735/2006, dated 22.05.2015 rejecting the refund claim of Rs.3,25,641/- for the period 2008-2009 and direct the respondents to refund the claim of the petitioner for Rs.3,25,641/- and pass such other*

*order...”*

The petitioner is a VAT dealer on the rolls of the 1st respondent – Commercial Tax Officer, Saroornagar Division, Hyderabad. The petitioner had filed returns regularly from time to time and for the assessment period upto March, 2009, the petitioner filed return on 26.08.2009 in Form VAT 213 claiming for refund of Rs.3,25,641/-. Now, the grievance of the petitioner is that though assessment order was passed on 04.07.2013, the assessment for the tax period upto March, 2009 has not been dealt with and thereby the refund claim has not been considered.

The learned counsel for the petitioner has submitted that the demand arising on account of the assessment order dated 04.07.2013 has been paid by the petitioner.

On the other hand, the learned Special Standing Counsel for Commercial Tax (Telangana) has submitted that there is possibility that the refund amount will be adjusted to the payment of tax which is arising on account of the assessment order dated 04.07.2013. He has further submitted that the matter may be remanded back to the assessing officer with a direction to process the claim of the petitioner particularly keeping in view the return filed in Form VAT 213.

Having considered the rival submissions, we are of the opinion that interest of justice would be met if the writ petition is disposed of with the following direction:

> “The 1st respondent is directed to process the return in Form VAT 213 and consider the claim of the petitioner for eligible refund. If the demanded tax amount on account of the order dated 04.07.2013 has not been paid, the 1st respondent may adjust the same and refund the balance amount. Considering the fact that the refund relates to the assessment year 2009, the entire process shall be completed within a period of eight weeks from the date of receipt of a copy of this order.”

Subject to the above direction, this writ petition is disposed of. No order as to costs.

As a sequel to the disposal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

**G. CHANDRAIAH, J**

30.10.2015

**CHALLA KODANDA RAM,J**

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