THE HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.7330 OF 2015

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

This Writ Petition is filed seeking to declare the action of respondents in showing the input tax credit of petitioner as 'Zero' for the month of June, 2014 as illegal and arbitrary.

Petitioner is a registered dealer under the provisions of Andhra Pradesh Value Added Tax Act, 2005. It is the case of the petitioner that in the month of May, 2014, he is having input tax credit of Rs.3,01,62,928/- and rectification is pending, but in this Writ Petition, it is not necessary to go into that aspect.

When the matter was called on earlier occasion, it was adjourned to enable the learned Government Pleader to ascertain whether the petitioner had any input tax credit in the month of May, 2014. On instructions, it is submitted that the petitioner had input tax credit in the month of May, 2014, but in view of the implementation of Andhra Pradesh Reorganisation Act, 2014 and subsequent steps taken for division of the State, input tax credit for the month of June, 2014 was shown as 'Zero' and policy decision has to be taken in this regard.

As it is not in dispute that in the month of May, 2014, petitioner had input tax credit of Rs.3,01,62,928/- and in the absence of any excess input tax adjusted against the tax payable by the petitioner, respondents should not have treated the available input tax credit as 'Zero' for the month of June, 2014, without determining the actual input tax credit available to the petitioner.

For the aforesaid reasons, the Writ Petition is disposed of directing the respondents to include the excess input tax credit of Rs.3,01,62,928/- in the monthly returns of June, 2014, as claimed by the petitioner. It is made clear that this order will not preclude the respondents from assessing the petitioner to tax, after giving him an opportunity of being heard and after assessing the actual input tax credit available to the petitioner.

Subject to the above, the Writ Petition is disposed of. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. No costs.

R. SUBHASH REDDY, J

Dr. B. SIVA SANKARA RAO, J

March 23, 2015
MD