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

WRIT PETITION No.7428 of 2004

ORDER : (Per Justice R. Subhash Reddy)

The petitioner was earlier a dealer under the provisions of the Andhra Pradesh General Sales Tax Act, 1957 and is presently covered by the provisions of the Andhra Pradesh Value Added Tax Act, 2005. In this writ petition, the petitioner seeks declaration by way of Mandamus, declaring the assessment and levy of sales tax under the provisions of the Andhra Pradesh General Sales Tax Act, 1957 on the turnovers relating to subsequent sales of gunnies made to Food Corporation of India and Rural Development Cess collection made by the Food Corporation under Rural Development Act, 1996 in assessment order Nos.8236/1997-98, 8236/99-00, 8236/2000-01, dated 14.10.1998, 29.01.2001 and 28.02.2002 respectively, as confirmed by the revisional authority in CCTS Ref.No.LIII(2)/1350/ 2002, dated 25.06.2003, in LIII(4)/1531/2003, dated 04.02.2004 and in LIII(4)/1537/2003, dated 24.01.2004 respectively, as illegal and arbitrary.

2. So far as the Cess under Rural Development Act, 1996 is concerned, in the counter affidavit filed by the respondents, it is stated that tax on Rural Development Cess component is not being enforced in view of the

instructions of Government in Memo No.22686/CT-II/2002-01, dated 10.04.2002. So far as the imposition of tax on the turnovers relating to second sales of gunnies to Food Corporation of India is concerned, it is represented by the learned Government Pleader that the said aspect is covered in view of the judgment of this Court in the case o f **The K.C.P.Ltd. (Ramakrishna Cements) Vs. Commercial Tax Officer, Macherla, Guntur District**[1].

3. We have perused the judgment in the aforesaid case, wherein, this Court has held that in view of the declaration of law under Section 6-C of the Andhra Pradesh General Sales Tax Act, 1957, the rate of tax on packing material sold with the goods should be the same as that of the goods packed or filled whether or not there is separate sale or agreement for sale for the packing materials and goods packed or filled. This finding was recorded based on the earlier judgment of this Court in the case of **Raasi Cement Ltd. & U.V.Krishnam Raju Vs. Commercial Tax Officer**[2], wherein, this Court has upheld the constitutional validity of Section 6-C of the Andhra Pradesh General Sales Tax Act, 1957.

4. In view of the judgment of this Court in **The K.C.P. Ltd.**'s case (1 supra), and for the reasons recorded therein, this writ petition is liable to be dismissed and it is accordingly dismissed. No costs.

Pending miscellaneous applications, if any, shall stand closed.

R. SUBHASH REDDY, J

23rd March 2015

DR. B. SIVA SANKARA RAO, J

ajr

[1] 34 APSTJ 198

[2] 24 APSTJ 100