**HON'BLE SRI JUSTICE R. SUBHASH REDDY**

**AND**

**HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO**

**WRIT PETITION No.3376 of 2015**

**Order:** (Per Justice R. Subhash Reddy)

This Writ Petition is filed with the following prayer:

> "For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble court may be pleased to issue a Writ of Mandamus or any other Writ or order or direction:
>
> A. declaring the action of the 1st respondent in issuing demand notices for payment of output tax of Rs.1,70,880/- and Rs.2,42,503/- for the months of June and July, 2014 respectively without adjusting the same from out of the input tax credit amount of Rs.6,65,189/- available, in terms of the provisions of the Andhra Pradesh Value Added Tax Act, as arbitrary, illegal, without jurisdiction;
>
> B. declaring the action of the respondents in blocking the online waybill facility to the petitioner for want of payment of output tax without reference to the input tax credit available to the petitioner as unjust and unsustainable under law; and
>
> C. consequently direct the 1st respondent to adjust excess input tax credit of Rs.6,65,189/- available as per monthly return for May 2014 towards the output tax for the months of June 2014 onwards by setting aside the demand notices dated 28.07.2014 and 25.08.2014, and to direct the respondent authorities to restore the online waybill issuing facility forthwith, in the interests of justice and to pass such other order or orders as Hon'ble Court may deem fit and proper in the circumstances of the case."

Petitioner is a registered dealer under the provisions of the A.P. V.A.T. Act, 2005 (for short "the Act') engaged in the business of sale of fertilisers. Fertiliser is taxable under entry 19 of schedule IV of the Act.

It is the grievance of the petitioner that, when he logged into the web portal of the Department, in the original monthly return for Value Added Tax (Form VAT 200), for the month of May, 2014, input tax credit is shown as Rs.6,65,189.00, however, coming to the month of June and July 2014, input tax credit is shown "0". It is stated that though petitioner is entitled for adjustment of input tax credit for a sum of

Rs.6,65,189.00, the same is not being updated in the computer-generated forms and the respondents are blocking the online waybill facility to the petitioner for want of payment of output tax without reference to the input tax credit available to the petitioner.

On instructions, it is fairly submitted by the learned Spl. Standing Counsel for Commercial Taxes, appearing for the respondents, that the carried forward input tax credit of Rs.6,65,189.00, was correctly shown in the month of May, 2014, but due to certain technical problems, i.e. on account of bifurcation of the erstwhile State of Andhra Pradesh, the input tax credit available, is not carried forward for subsequent months.

When the petitioner is paying tax and filing returns regularly, the input tax credit in his account is to be displayed correctly. When a sum of Rs.6,65,189.00, was shown for the month of May, 2014, there is no reason for not carrying forward the said sum to the subsequent months. Though it is submitted by the learned standing counsel that the input tax credit was not correctly shown due to technical problems, it is for the Department to rectify the same and on account of technical snag in the Department, petitioner-assessee should not suffer.

Inasmuch as it is not in dispute that a sum of Rs.6,65,189.00, is shown as input tax credit for the month of May 2014, we dispose of the Writ Petition with a direction to the respondents to adjust the said sum against the output tax payable by the petitioner for the months of June and July 2014 and continue to adjust the same. Further, respondents shall take steps for issuing waybills as per the request made by the petitioner. No order as to costs.

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

R. SUBHASH REDDY, J

Dr. B. SIVA SANKARA RAO, J

February 16, 2015

MRR