THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

and

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No.38708 of 2015

ORDER: (per RR, J)

Heard Sri M.V.J.K.Kumar, learned counsel for the petitioner and Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes and, with their consent, the writ petition is disposed of at the stage of admission.

The order under challenge in this writ petition is the assessment order passed by the second respondent dated 24.09.2015 levying purchase tax on purchase of paddy under Section 4(4) of the APVAT Act. While the assessing authority noticed the judgment of this Court in **KGF COTTONS (P) LTD v. THE ASSISTANT COMMISSIONER (CT) LTU, ADILABAD**, he held that applicability of Section 15(c) of the CST Act would be examined during the course of assessment of the turnover of the dealer under the CST Act; and levy of tax under Section 4(4) on the purchase value of paddy, involved in the sale of husk, was within the ambit of the APVAT Act. The law declared by this Court in **KGF COTTONS (P) LTD** (1 supra) required that, in view of Section 15(c) of CST Act, purchase tax levied, under Section 4(4), on paddy should be deducted from the tax levied on the sale of rice, as both paddy and rice are declared goods under Section 14 of the CST Act. The said provision would apply even to assessments made under the APVAT Act, and not merely to assessments under the CST Act.

To the extent the assessing authority failed to extend the benefit of Section 15(c) to the petitioner, the impugned order is set aside. The matter is remanded to the assessing authority who shall pass orders afresh, and in accordance with law, giving the petitioner the benefit of Section 15(c) of the CST Act.

The Writ Petition is, accordingly, disposed of. No costs. Miscellaneous petitions pending, if any, shall also stand dismissed.

RAMESH RANGANATHAN, J

30th NOVEMBER, 2015.

M.SATYANARAYANA MURTHY, J

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