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

WRIT PETITION No.5693 of 2015

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

This writ petition is filed by the petitioner questioning the proceedings vide D.C. Order No.202, RR.No.15/2013-14, dated 15.12.2014, issued by respondent No.3 and the consequential proceedings in TIN: 2806403364, dated 29.12.2014 issued by respondent No.2, revising the assessment of the petitioner's liability for the period from December, 2007 to October, 2012 and declining to grant input tax credit, as arbitrary and illegal.

2. The petitioner is a dealer under the provisions of A.P. VAT Act, 2005 (for brevity "the Act"), registered on the rolls of 2nd respondent-Commercial Tax Officer, Miryalaguda, Nalgonda District, and engaged in the business of purchase and sale of Lead Acid Batteries with TIN No.28806403364, E.D.R.01/12/2007. The Deputy Commercial Tax Officer-I (DCTO), Nalgonda, has completed the VAT audit for the period between December, 2007 and October, 2012 as per the authorization issued by the 3rd respondent-Deputy Commissioner (CT), Nalgonda Division. On a further

scrutiny, alleging that the petitioner has declared input tax credit more than eligibility and the same is accepted by the Assessing Authority, revisional proceedings are initiated against the petitioner. Questioning the same, the petitioner has filed the present writ petition.

3. Heard learned counsel for the petitioner and the learned Special Government Pleader for Commercial Taxes.

4. The petitioner has filed tax invoices of the seller M/s. Akash Metal Industries along with other documentary evidence to claim input tax credit. From a perusal of the impugned order dated 15.12.2014, it is clear that the same are not in proper format as prescribed under Rule 27 of the A.P. VAT Rules, 2005. As the petitioner has already filed tax invoices issued by the seller, even if there are any deficiencies in mentioning the required particulars of such tax invoices, the petitioner should not be made to suffer for the same.

5. In view of the above, we deem it appropriate to dispose of the writ petition setting aside the impugned order dated 15.12.2014, with a direction to the respondents to return the tax invoices filed by the petitioner within a period of two weeks from today and, on such return, the petitioner shall rectify the defects, if any,

by mentioning all the particulars required under Rule 27 of the A.P. VAT Rules, 2005 and re-submit the same within a period of four weeks thereafter. On such re-submission, it is open to the 3rd respondent to re-examine the same and pass appropriate orders in accordance with law after giving an opportunity of hearing to the petitioner.

6. Subject to the above directions, this writ petition is disposed of at the admission stage. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

Dr. JUSTICE B.SIVA SANKARA RAO

09.03.2015.

Msr

HON'BLE SRI JUSTICE R.SUBHASH REDDY

AND

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.5693 of 2015

09.03.2015

Msr