**HON'BLE SRI JUSTICE G.CHANDRAIAH**

&

**HON’BLE SRI JUSTICE CHALLA KODANDA RAM**

**W.P.No. 16459 of 2015**

**DATE: 29.06.2015**

Betweeen:

M/s. Rohinee Traders .. Petitioner

And

State of A.P. rep. by Principal
Secretary, Commercial Taxes and two
Others .. Respondents

**O R D E R**:- (per Hon'ble Sri Justice G. Chandraiah)

The petitioner-firm is a registered dealer under A.P.Value Added Tax Act, 2005 (for brevity "the Act") and doing business in Zarda, Pan Flavor and filed returns in Form – VAT 200 for the tax period from April, 2007 to June, 2011. While so, it is stated that in pursuance of the audit conducted by the Commercial Tax Officer, the Deputy Commercial Tax Officer issued a show cause Notice dated 11.01.2012 stating that the petitioner had not declared certain turnover and tax of Rs.8,531/- was demanded and the petitioner paid the amount on 20.01.2012. Now, the petitioner's grievance is that the 3rd respondent-Deputy Commissioner, on revising the assessment of the tax, held that the assessing authority erroneously allowed input tax on purchase of Zarda even though the petitioner did not claim input tax and issued proceedings dated 10.10.2012 for the tax period from 2007-2008 to 2011-2012 levying a tax of Rs.2,06,530/-. Hence, the present writ petition is filed seeking to set aside the impugned order dated 10.10.2012.

The learned counsel for the petitioner has contended that the impugned order dated 10.10.2012 issued by the

3rd respondent levying a tax of Rs.2,06,530/- is in violation of Article 265 of the Constitution of India and contrary to Section 13(1) of Act which mandates that an input tax credit shall be allowed to the VAT dealer for the tax charged in respect of all purchases of taxable goods made by the dealer during the tax period if such goods are for use in the business of the VAT dealer and prays to set aside the impugned order.

On the other hand, the learned Government Pleader for Commercial Tax submits that the assessment order was originally passed on 21.01.2012 by the Deputy Commercial Tax Officer by virtue of the powers vested in him under Section 30(2) of the Act, and subsequently, the 3rd respondent-Deputy Commissioner revised the assessment and issued the impugned proceedings dated 10.10.2012 levying the tax of Rs.2,06,530/- which became final, and thereafter, show cause notice dated 03.08.2012 was issued to the dealer and served on him on 24.08.2012, but the dealer neither responded nor filed any objections nor requested for time against the notice. Thereupon, the 2nd respondent passed effectual orders dated 25.03.2014 confirming the levy of Rs.2,06,530/- and the Notice dated 28.06.2014 issued to the petitioner is only a communication requiring them to pay the demanded tax, as such, the writ petition is liable to be dismissed.

Heard the learned counsel for both the parties and perused the material placed on record.

The 3rd respondent-Deputy Commissioner revised the order wherein the finding arrived at that without the petitioner claiming input tax credit by filing requisite returns in Form VAT 200 he was allowed input tax credit, which was irregular. Further, no purchase invoices were filed by the petitioner, as such, the returns submitted by the dealer are liable to be charged at the rate of 25%. These aspects are not disputed before us and there is no challenge to the order impugned on any tenable grounds under Article 226 of the Constitution of India. Hence, the impugned order does not call for interference by this Court.

Hence, the writ petition is devoid of merits and accordingly dismissed. However, the petitioner is at liberty to avail alternative remedies as may be available to him under law. No order as to costs.

As a sequel to the dismissal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

**G. CHANDRAIAH, J**

29.06.2015

**CHALLA KODANDA RAM,J**

bcj