THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Writ Petition No.3174 of 2016

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

The order, under challenge in this writ petition, is the assessment order passed in Form VAT 305 dated 27.10.2015 denying the petitioner, the benefit of set off under Section15(c) of the Central Sales Tax Act, 1956 (for short "the Act") while computing purchase tax on the purchase value of paddy corresponding to the sale value of husk, and in denying input tax credit on the sale of "husk" on the ground that husk is exempt from tax under the Act.

In so far as the first question is concerned, Sri J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes, would fairly state that, in view of the law declared by this Court in ***K.G.F.Cottons (P) Limited vs. The Assistant Commissioner (CT) LTU, Adilabad***[1], the petitioner is entitled for the benefit of set off under Section 15(c) of the Act but, in so far as the petitioner's claim for input tax credit is concerned, this Court, in ***K.G.F.Cottons (P) Limited***[1]***,*** held that the question, whether computation of input tax credit in terms of Rule 20 is in violation of Sections 14 and 15 of the Act, must be answered in the facts and circumstances of each case; and this question which arises for consideration necessitates examination on facts, and should have been agitated by way of an appeal before the Appellate Deputy Commissioner.

It is wholly unnecessary for us to examine whether or not the petitioner could have preferred an appeal against the order, passed by the Assessing Authority, denying them the benefit of input tax credit, as it is not in dispute that, while assessing the petitioner to tax, the Assessing Authority has not extended them the benefit of set off under Section 15(c) of the Act. The impugned order must be and is, accordingly, set aside to the limited extent the Assessing Authority denied the petitioner the benefit of set off under Section15(c) of the Act, and the benefit of input tax credit. The Assessing Authority shall pass an order afresh, in accordance with law, extending the petitioner the benefit of set off under Section 15(c) of the Act in terms of the law declared by this Court in ***K.G.F.Cottons (P) Limited***[1]. In so far as denial of input tax credit is concerned, it is open to the petitioner to put forth all such contentions, as are available to them in law, before the Assessing Authority who shall consider their claim, for being extended input tax credit, and pass an assessment order afresh in accordance with law.

The writ petition is disposed of accordingly. The miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M. SATYANARAYANA MURTHY, J

Date: 02.03.2016
JSU

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

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[1] (2015) 60 APSTJ 135 (HC-Telangana &AP)