THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Writ Petition No.26000 of 2016

ORDER: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard Ms.Shravya Desai, learned counsel for the petitioner, and Sri M.Govind Reddy, learned Special Standing Counsel for Commercial Taxes and, with their consent, the writ petition is disposed of at the stage of admission.

As on 01.06.2014, the petitioner had an input tax credit balance of Rs.7,19,947/- in their favour. Consequent upon bifurcation of the erstwhile State, the input tax credit carried forward by the petitioner was made 'zero' by the respondents. By proceedings dated 07.05.2015 the petitioner was informed that they had provisional input tax credit of Rs.7,19,947/- which could be adjusted against the dues post June, 2014. The petitioner claims to have, therefore, adjusted the available input tax credit towards the output tax payable in the months of April, May, June and July 2015.

The 1st respondent issued a final intimation form on 29.11.2015 accepting the adjustment for the months of April and June 2015. Thereafter, they issued a notice on 11.09.2015 claiming Rs.6,41,572/- which was due for the months of April, May and June 2015. The petitioner, by their letter dated 39.09.2015, informed them that they had a net credit carried forward balance of Rs.7,19,947/- to be adjusted against their tax dues. The petitioner received a demand for penal interest for Rs.36,454/- on 11.05.2016 on the ground of belated payment of tax.

The penal interest levied on the petitioner was for delayed payment of tax. The delay, if any, was only on the part of the respondents and their failure to adjust the petitioner's output tax liability with the input tax credit available to them. The mere fact that the respondents have made adjustment belatedly would not justify their imposing penalty on the petitioner for delayed payment of tax dues, as the delay was on the part of the respondents in adjusting the petitioner's output tax liability with the input tax credit available to them. The impugned order of penalty must therefore be and is, accordingly, set aside.

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

(RAMESH RANGANATHAN, ACJ)

(U.DURGA PRASAD RAO, J)

04th August 2016
JSU

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

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Writ Petition No.26000 of 2016

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Date: 04.08.2016

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