THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Writ Petition No.44058 of 2016

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

The proceedings, under challenge in this Writ Petition, is the order of revision passed by the Deputy Commissioner(CT), dated 14.11.2016 revising the assessment order passed by the Assistant Commissioner (CT) LTU, Kadapa, dated 15.11.2002.

The petitioner, an agent of I.T.C. limited, received credit notes for a sum of Rs. 69,61,180/-. On the ground that they had submitted details only for Rs.25,42,909/-, leaving an amount of Rs.44,18,271/- unexplained, the petitioner was subjected to tax for the said amount. In their reply to the show cause notice, the petitioner had asserted that the credit notes, issued by the I.T.C was only towards reimbursement of the expenses incurred by them, which did not alter either the purchase or sale; and they were, therefore, not liable to tax as per Rule 16(f) of the A.P. VAT Rules, which stipulates that the tax component cannot be disturbed on the sale price in the original invoice in respect of credit notes, price variation, discounts etc., as it has already been subjected to tax at the hands of the sellers.

It is the petitioner's case that they claimed input tax credit as per the original invoice issued by the sellers; and the revisional authority was not justified in treating the amounts referred to in the credit notes as taxable turnover in their hands. This contention was brushed aside by the revisional authority holding that Rule 16(f) had no application. The submission of Sri G.Narendra Chetty, Learned Counsel for the petitioner, that the credit notes received by the petitioner for certain transactions, which do not have any effect on the tax reflected in either the purchase invoice or the sales invoice, should not be treated as turnover which has escaped levy of tax under the Act, cannot be said to be without merit.

Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes, would submit that, instead of keeping the Writ Petition pending on the file of this Court, it would suffice if the petitioner is permitted to produce necessary evidence to show that no tax had been collected, for the amounts mentioned in credit notes i.e for Rs.44,18,271/-, which they had not explained earlier.

While Sri G. Narendra Chetty, learned counsel for the petitioner, would contend that what was not produced by the petitioner is only credit notes for Rs. 8,49,959/-, it is unnecessary for us to dwell on this aspect as the petitioner was required to produce all such information which the revisional authority may call upon them to furnish.

We consider it appropriate, therefore, to set aside the revisional order. The revisional authority, shall after giving the petitioner an opportunity of a personal hearing and after permitting them to produce all such information which he may require, shall pass a fresh order of revision in accordance with law at the earliest and, in any event, not later than three months from the date of receipt of a copy of this order.

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

(RAMESH RANGANATHAN, ACJ)

(A. SHANKAR NARAYANA, J)

21st December, 2016

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THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Writ Petition No.44058 of 2016

Date: 21.12.2016

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