The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice M.S.K.Jaiswal

Tax Revision Case No.85 of 2016

Date: 22.12.2016

Between:

The State of Andhra Pradesh
rep. by the State Representative
Before AP VAT Appellate Tribunal
Meghana Towers
4th floor, Opp.Gurudwara Bus stop,
Visakhapatnam

.. Petitioner

and

M/s.Rashtriya Ispat Nigam Limited
Visakhapatnam Steel Plant,
Visakhapatnam

.. Respondent

Counsel for the Petitioner : **Mr.Suri Babu.S,**
Spl.Standing Counsel for Commercial Taxes

The Court made the following:

<u>Order</u> : (Per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The issue decided by the Andhra Pradesh Value Added Tax Appellate Tribunal, Visakhapatnam (for short 'the Appellate Tribunal'), is whether supply of water by the Irrigation Department to the respondent constitutes sale and consequently, the same is exigible for Value Added Tax (VAT).

The Appellate Tribunal, while placing reliance on the judgments of this Court in the **State of A.P. vs. Hindustan Shipyard Limited**[1] and **M/s.Hindustan Shipyard Limited vs. State of A.P.,**[2] held that the contract in the instant case pertains to supply but not sale of water as what was sought to be recovered was only charges such as annuity on capital cost at 10% apportionable per year for 20 years, the interest charges @ 10% p.a., annual operation and maintenance charges @ 2% on capital cost, depreciation @ 1% on capital cost and that no cost or price attached to sale of water were found in the calculations.

The learned Special Standing Counsel appearing for the petitioner- State has not disputed that the issues decided in the afore-mentioned two cases have been identical to that decided by the Appellate Tribunal in the instant case with the only difference

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[1] 142 STC 460
[2] 38 APSTJ 189

that the supplier in those cases was Visakhapatnam Municipal Corporation while supplier in the instant case is Irrigation Department. This difference not being material to distinguish two sets of cases, the Appellate Tribunal has rightly allowed the appeal filed by the respondent. Hence, we do not find any question of law arising in this Tax Revision Case for adjudication.

For the reasons as above, the Tax Revision Case is dismissed.

(C.V.Nagarjuna Reddy, J)

(M.S.K.Jaiswal, J)

Dt: 22nd December, 2016
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