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

<u>Writ Petition No.8257 of 2016</u>

<u>ORDER</u>: (per Hon'ble Sri Justice Ramesh Ranganathan)

The assessment order dated 10.04.2015, and the consequential notice of demand under Section 29 of the A.P.Value Added Tax Act, 2005 (for short "the Act") dated 19.01.2016, are under challenge in this writ petition.

Sri G.Tuhin Kumar, learned counsel for the petitioner, would draw attention of this Court to the table referred to in the assessment order dated 10.04.2015 and, in particular, to Vehicle No.AP-35U-9721 to contend that the said vehicle does not belong to the petitioner, despite which he has been asked to pay tax for having leased the said vehicle. This contention necessitates rejection as, even in the show cause notice dated 04.03.2015 issued earlier, the said vehicle number is referred to. In his letter dated 30.03.2015, submitted in reply to the said show cause notice, the petitioner has not chosen to raise any such plea regarding his not having leased Vehicle No.AP-35U-9721 to A.P.S.R.T.C.

The question whether Vehicle No.AP-35U-9721 belongs to him; and whether the said vehicle was leased to the A.P.S.R.T.C. by somebody else; are all questions of fact which this Court would not examine in proceedings under Article 226 of the Constitution of India. In the absence of any such plea having been raised in the reply to the show cause notice, it would be wholly inappropriate for this Court to examine disputed questions of fact; and record its findings on these facts.

Sri G.Tuhin Kumar, learned counsel for the petitioner, would submit that the petitioner would seek rectification in terms of Rule 60 of the A.P. Value Added Tax Rules, 2005 (for short "the Rules"). The petitioner is granted liberty to avail such a remedy under Rule 60 of the

Rules. It is made clear that this Court has not expressed any opinion on whether the factual issues, raised in this Writ Petition, would fall within the ambit of Rule 60 of the Rules or not, as these are all matters for the Assessing Authority to consider on an application filed by the petitioner in this regard.

Leaving it open to the petitioner to avail the remedy under Rule 60 of the Rules, the writ petition fails and is, accordingly, dismissed.

The miscellaneous petitions pending, if any, shall also stand dismissed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M. SATYANARAYANA MURTHY, J

Date: 15.03.2016

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THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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