THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

<u>WRIT PETITION No.30086 of 2016</u>

<u>ORDER</u>: (**Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan**)

Heard Sri G. Narendra Chetty, 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.

The proceedings under challenge in this writ petition is the assessment order in Form VAT 305 dated 23.8.2016 disallowing the petitioner's claim for input tax credit on the ground that one of the petitioner's vendors had closed their business, and the other had not disclosed this turnover in their returns. While the petitioner had filed copies of the tax invoices, way bills and ledger copies before the assessing authority to establish that they had made payment to their vendors for the goods purchased by them, they have now placed before us copies of the bank statements in support of their submission that, as they had paid the sale consideration to their vendors, and had produced all the documents prescribed under the A.P.VAT Act for being extended the benefit of input tax credit, they cannot be denied the benefit of I.T.C., merely because their vendors had failed to disclose this turnover in their returns.

The provisions of the AP VAT Act merely require copies of the tax invoices to be produced. In order to ensure that the transactions are genuine, the authorities need also to be permitted to ascertain whether there was actually a sale of the goods, and whether the purchaser had actually paid the sale consideration to their vendor. If the transaction is genuine, and is free from doubt, failure of the vendor to account for such transactions in their returns cannot, by itself and without anything more, result in denial of I.T.C. to the purchaser of the goods. In any event, these are matters which the assessing authority is required to consider. When we asked Sri M. Govind Reddy, learned Special Standing Counsel for Commercial Taxes, to obtain instructions on whether the assessing authority would re-examine the matter, in the light of the bank statements now filed before this Court, learned Special Standing Counsel, on instructions, would fairly state that the assessing authority would examine the matter afresh.

In the light of the submissions now made by Sri M.Govind Reddy, learned Special Standing Counsel for Commercial Taxes, the impugned assessment order is set aside. The assessing authority shall after putting the petitioner on notice, and after giving them an opportunity of being heard and a personal hearing, pass a fresh assessment order, in accordance with law, at the earliest and, in any event, not later than two months from the date of receipt of a copy of this order.

The writ petition stands disposed of accordingly. The 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)

2nd November, 2016

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Date: 2.11. 2016

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