THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

WRIT PETITION NO.32370 OF 2016

ORDER: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

The proceedings under challenge in this Writ Petition is the assessment order dated 03.08.2015, for the period from 01.01.2015 to 31.03.2015, whereby tax was levied under Section 4(4) of the Andhra Pradesh Value Added Tax Act, 2005 ("the Act" for brevity) on the sale of husk proportionate to the purchase of paddy from unregistered dealers. The power to levy tax on the sale of husk, under Section 4(4) of the Act, was considered by a Division Bench of this Court in **KGF Cottons Pvt. Ltd. v. Assistant Commissioner (CT)**[1], and it was held that the assessing authority lacked jurisdiction to levy tax on such sales under Section 4(4) of the Act.

While we were initially inclined to admit the Writ Petition and grant stay, Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, would submit that, instead, the impugned assessment order be set aside, and the matter remanded to the assessing authority to pass an assessment order afresh after considering the judgment of the Division Bench of this Court in **KGF Cottons**[1].

In view of the submission of the learned Special Standing Counsel, we consider it appropriate to set aside the impugned order, and to direct the assessing authority to pass an assessment

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[1] **[2015] 81 VST 1**

order afresh in accordance with law, including the judgment of Division Bench of this Court in **KGF Cottons**[1].

The Writ Petition stands disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, ACJ)

(A.SHANKAR NARAYANA, J)

19th October 2016
RRB