THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE T.RAJANI

WRIT PETITION NO.18665 OF 2017

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

Heard Sri S.Dwarakanath, learned counsel for the petitioner and Sri J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes and, with their consent, the Writ Petition is disposed of at the stage of admission.

In reply to the show cause notice for the year 2013-14, the petitioner submitted their reply by their letter dated 26.04.2017 relying on the judgment of the Division Bench of this Court in **ABB India Limited v. Commercial Tax Officer, Hyderguda Circle**[1] to contend that a part of the transit sales turnover, covered by C-Form and not covered by E1 declaration form, can only be subjected to tax at the concessional rate of 2%, and not at the higher rate of 5%. This contention of the petitioner-assessee has not been dealt with in the impugned order. On this short ground alone, the assessment order is liable to be set aside.

The impugned order is set aside. This order shall not preclude the assessing authority from passing a reasoned order afresh, after considering the objections submitted by the petitioner in reply to the show cause notice.

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[1] **(2014) 59 APSTJ 4**

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)

(T.RAJANI, J)

27th June 2017
RRB