THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE MS. JUSTICE J. UMA DEVI

<u>WRIT PETITION No. 2214 of 2017</u>

<u>ORDER:</u> ***(Per VRS,J)***

Aggrieved by the revision of assessment passed under Section 32(2) of the Andhra Pradesh Value Added Tax Act, 2005, the assessee has come up with the above writ petition.

2. Heard Mr. M.V.J.K.Kumar, learned counsel for the petitioner, and Mr. Shaik Zeelani Basha, learned special standing counsel for Commercial Taxes (AP) appearing for the respondents.

3. The contention of the petitioner is that the issue raised in this writ petition is squarely covered by the decision of this Court in ***K.G.F. Cottons (P) Ltd., Assistant Commissioner (CT)***[1]. According to the learned counsel for the petitioner, the dealer referred to the decision of this Court dated 04.03.2015 in W.P.No.17972 of 2008, but the 2nd respondent failed to consider the same.

4. It is seen from the impugned order that there is a reference to W.P.No.17972 of 2008. The issue as to whether tax can be levied under Section 4(4) of the Act on husk to the extent it related to the

[1] (2015) 81 VST 1

purchase of paddy, is covered by the decision in ***K.G.F. Cottons (P) Ltd.*** But, the 2nd respondent has not taken note of the law laid down in the said decision. Therefore, we are of the considered view that the matter has to be remanded back.

5. Hence, the Writ Petition is allowed, the impugned order is set aside, and the matter remanded back to the 2nd respondent for consideration of the issue, in the light of the decision of this Court in ***K.G.F. Cottons (P) Ltd.*** The 2nd respondent may pass fresh orders, after taking note of the facts, with reference to the case law indicated above.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J.

24th January, 2017
cbs