THE HON'BLE THE ACTING CHIEF JUSTICE
RAMESH RANGANATHAN
&
THE HON'BLE SMT JUSTICE T. RAJANI

WRIT PETITION No.19877 of 2017

ORDER: (Per Hon'ble the Acting Chief Justice Ramesh Ranganathan)

Heard Sri P. Balaji Varma, learned counsel for the petitioner and Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes and, with their consent, the writ petition is finally heard at the stage of admission.

The order under challenge, in this writ petition, is the assessment order in Form VAT 305 dated 24.03.2015 to the extent the petitioner was subjected to tax under Section 4(4) of the AP Value Added Tax Act, 2005 (for short 'the Act') on the sale of Husk which this Court held to be illegal in K.G.F. COTTONS (P) LTD. v. ASSISTANT COMMISSION (CT) LTU AND OTHERS[1]

Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes, would submit that the impugned assessment order deals with several other issues which should not be permitted to be reopened, in the guise of the order now passed by this Court. Sri P. Balaji Varma, learned counsel for the petitioner, would submit that the only question raised in this writ petition relates to levy of tax on the sale of Husk under Section 4(4) of the Act; and the petitioner has not challenged the assessment order relating to other items.

In such circumstances, we consider it appropriate to set aside the impugned assessment order to the limited extent that tax was

[1] [2015] 81 VST 1

levied on the sale of Husk under Section 4(4) of the Act. All other issues, dealt with in the impugned order, are affirmed. The assessing authority shall consider the question regarding levy of tax, on the sale of Husk under Section 4(4) of the Act, in the light of the judgment of the Division Bench of this Court in K.G.F. COTTONS (P) LTD.'s (1 supra), and pass a fresh assessment order in accordance with law. As the order of penalty is also subjected to challenge in the very same writ petition, suffice it to make it clear that it is open to the petitioner to challenge the order of penalty in independent legal proceedings.

The writ petition stands disposed of accordingly. Consequently, pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

RAMESH RANGANATHAN, HACJ

T. RAJANI, J

June 27, 2017
DSK