THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

<u>Writ Petition No.46905 of 2016</u>

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

The petitioner claims to have an excess input tax credit of Rs.7,58,77,172/-, despite which the assessing authority is said to have raised a demand for Rs.1,33,89,879/-.

Sri S.Dwarakanath, learned counsel for the petitioner, would submit that, even if the demand of Rs.1,33,89,879/- were to be adjusted against the input tax credit available to the petitioner, they would still be entitled for a refund of the balance input tax credit of Rs.6,24,87,293/-.

The petitioner's grievance is that while the assessed tax of Rs.1,33,89,879/- is disputed by them, against which they are entitled to prefer an appeal under Section 31(1) of the A.P. Value Added Tax Act, 2005 to the Appellate Deputy Commissioner, they are required to deposit 12.5% of the disputed tax for the appeal to be maintained before the Appellate Deputy Commissioner. If, on the other hand, the assessed tax of Rs.1,33,89,879/- were to be adjusted, against the input tax credit available to them, the petitioner, having paid the entire disputed tax, need not pay 12.5% of the assessed tax for an appeal to be maintained before the Appellate Deputy Commissioner.

As the last date for preferring an appeal is due to expire on 19.01.2017, we asked Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes, to ascertain whether the assessing authority would examine the petitioner's claim for adjustment, of the excess input tax credit available in their account, against the assessed tax, within a week. Today, the learned Special Standing Counsel would fairly state that the assessing authority would examine the matter, and adjust the input tax credit available to the petitioner with the tax assessed by him for the tax period 2012-13 to 2015-16 on or before 12.01.2017.

The Writ Petition is, accordingly, disposed of directing respondents 1 and 2 to examine the petitioner's claim for adjustment of input tax credit against the assessed tax, and give them the benefit of such adjustment at the earliest, and in any event on or before 12.01.2017; and to intimate the order, so passed by them, to the petitioner forthwith. The petitioner's claim for refund of the balance input tax credit is left open to be contested in independent legal proceedings. 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)

05th January, 2017
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Date: 05.01.2017

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