<u>THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY</u>

<u>AND</u>

<u>THE HON'BLE SRI JUSTICE T.AMARNATH GOUD</u>

<u>W.P.No.39741 of 2017</u>

<u>Date: 24.11.2017</u>

Between:

M/s.A.P.Farm Needs,
29/12/13/A, Gopal Reddy Road,
Governorpet, Vijayawada – 520 002,
Krishna district, Andhra Pradesh,
Rep. by its Proprietor K.Siva Kumar. … Petitioner

And

The Assistant Commissioner (State Tax),
Krishna Lanka Circle, Vijayawada,
Andhra Pradesh and four others … Respondents

Counsel for the Petitioner : Mr.P.Girish Kumar

Counsel for the Respondents : Mr. Shaik Jeelani Basha
Special Standing Counsel for
Commercial Tax (AP) for
respondents No. 1 to 4

Mr.K.Lakshman,
Assistant Solicitor General
for respondent No.5.

The Court made the following:

Order : (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This writ petition is filed for the following substantial reliefs:

> "1. declaring the action of the respondent authorities in not permitting the petitioner to adjust the amount lying to the credit of the petitioner, in its electronic ledger, as input tax carried forward as on 30.06.2017 towards the output tax payable from 01.07.2017 onwards under the Central Goods and Service Tax Act, 2017, as arbitrary, illegal and confiscatory in nature and consequently;
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> 2. direct the respondent authorities to permit the petitioner to adjust the input tax credit of Rs.24,49,521/- available as on 30.06.2017 towards the output tax payable from 01.07.2017 onwards under the Central Goods and Service Tax Act, 2017 simultaneously with the output tax payable under the Andhra Pradesh Goods and Services Tax Act. 2017; or
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> 3. in the alternative direct the respondents 1 to 3 to refund an amount of Rs.12,24,760/- being half of the amount of carried forward input tax credit of Rs.24,49,521/- available as on 30.06.2017, forthwith with interest @ 18% per annum from 01.07.2017 till date of payment in order to facilitate the petitioner to pay the same again under CGST on the sales of the opening Stock in the interests of justice".

2. At the hearing, Mr.P.Girish Kumar, learned counsel for the petitioner, fairly conceded that the statutory enactment in force, pertaining to Goods and Sales Tax, does not envisage adjustment of input tax accumulated under Andhra Pradesh Value Added Tax Act, towards Central Goods and Service Tax. In the absence of such a provision, it is not possible for this Court to issue any writ. However, the respondents need to examine the grievance of the petitioner and suggest a workable solution with regard thereto. As the petitioner has not made any representation to any of the respondents, it is appropriate that it makes such a representation to respondent No.3. Within two weeks of receipt of such representation, the respondent

No.3 shall apply its mind and consider redressal of the petitioner's grievance, within the framework of the statutory dispensation. The decision so taken, shall be communicated to the petitioner.

3. Subject to the above observations and directions, the writ petition is disposed of. As a sequel to the disposal of the writ petition, W.P.M.P.No.49268 of 2017 filed for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(T.Amarnath Goud, J)

Date: 24th November, 2017

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