HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION Nos.24270 and 24399 of 2018

COMMON ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

By way of these writ petitions, the petitioner firm seeks to assail the order of assessment in Form VAT 305 dated 26.04.2017 and the order of penalty in Form VAT 203 dated 19.08.2017 passed by the Commercial Tax Officer, Morrispet Circle, Tenali, the first respondent herein, for the assessment period 2010-11 to 2013-14.

The issue is squarely covered by the decision rendered by a Division Bench of this Court in K.G.F. Cottons (P) Ltd. v. Assistant Commissioner (CT) LTU[1].

For reasons alike as were mentioned in the aforestated judgment and in terms thereof, we set aside the impugned order of assessment to the limited extent that tax was levied on the sale of Husk under Section 4(4) of the Andhra Pradesh Value Added Tax Act, 2005. In consequence, the order of penalty also stands set aside to the extent it relates to the penalty levied in relation to such tax. The assessing authority shall consider the question regarding levy of tax on the sale of Husk in the light of the aforestated judgment and pass a fresh assessment order in accordance with law. We make it clear that the levy of penalty, if any, would depend upon the fresh assessment order.

The writ petitions are allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

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SANJAY KUMAR, J

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T.AMARNATH GOUD, J

Dt: 06.08.2018.
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1 (2015) 81 VST 1