

HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.28550 of 2018

ORDER: {Per Hon'ble Sri Justice Ramesh Ranganathan}

The order impugned in this writ petition is the order of penalty issued in Form VAT 203 dated 19.08.2017 for the assessment period 2013-14 to 2014-15 (upto July, 2014) under the Andhra Pradesh Value Added Tax Act, 2005. This order is questioned on the ground that it is contrary to the law laid down by this Court in **K.G.F.Cottons (P) Ltd. vs. Assistant Commissioner (CT) LTU¹**.

The impugned order of penalty was passed, pursuant to the assessment order in Form VAT 305 dated 26.04.2017. The said assessment order was set aside by a Division Bench of this Court in W.P.No.24308 of 2018 dated 06.08.2018, and the assessing authority was directed to consider the question, regarding levy of tax on the sale of husk, in the light of the judgment of the Division Bench of this Court in **K.G.F.Cottons (P) Ltd¹**.

The order of penalty, impugned in this writ petition, is as a consequence of the assessment order which was set aside in W.P.No.24308 of 2018 dated 06.08.2018. As the assessment order itself has been set aside, the consequential order of penalty must be, and is accordingly, set aside. Suffice it to make it clear that the order now passed by us shall not disable the respondents from initiating penalty proceedings after an assessment order is passed afresh in compliance with the order of the Division Bench in W.P.No.24308 of 2018.

¹ (2015) 81 VST 1

The Writ Petition is disposed of accordingly. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(RAMESH RANGANATHAN, J)

(KONGARA VIJAYA LAKSHMI, J)

13th August, 2018
JSU



**HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**



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Date: 13.08.2018

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