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

WRIT PETITION No.24308 of 2018

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

The prayer of the petitioner firm in this writ petition reads as under:

> "For the reasons stated in the accompanying affidavit, it is therefore prayed that this Hon'ble Court may be pleased to issue Writ of Certiorari or any other appropriate Writ or order or direction quashing the order of assessment in Form VAT 305 dated 26.4.2017 for the period 2013-14 to 2014-15 (upto July 2014) under Andhra Pradesh Value Added Tax Act, 2005 as illegal, arbitrary, without authority of law and jurisdiction, in gross violation of principles of natural justice and contrary to law laid down by this Hon'ble High Court in KGF Cotton case (81 VST1) and consequently direct the 1st Respondent to redo the assessment in the light of the judgment of this Hon'ble Court in W.P.No.17972/2008 & batch dated 4.3.2015 (reported in 81 VST 1), and pass such other order or orders as the Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

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. The assessing authority shall consider the question regarding levy of tax on the sale of

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[1] (2015) 81 VST 1

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 petition is 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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