HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SRI JUSTICE M.S.K. JAISWAL

WRIT PETITION No.1607 OF 2018

ORDER: (per Hon'ble the Acting Chief Justice Ramesh Ranganathan)

Heard Sri G. Narendra Chetty, Learned Counsel for the petitioner and Sri Shaik Jeelani Basha, Learned Special Standing Counsel for Commercial Taxes and, with their consent, the Writ Petition is disposed of at the stage of admission.

By the impugned order, a sum of Rs.2,38,90,943/- was levied as penalty, equivalent to 100% of the tax due under Section 53(3) of the A.P. VAT Act. After the order of penalty was passed, the Appellate Authority, in an appeal preferred by the petitioner against the order of assessment, passed an order on 27.12.2017 allowing the appeal with respect to the tax levied on input tax credit of Rs.2,35,03,418/-, and tax on a turnover of Rs.2,84,43,938/-. He confirmed the assessed tax of Rs.67,622/-.

As the order of the Assessing Authority, assessing the petitioner to tax, was set aside except to the extent tax of Rs.67,672/- was levied, the penalty leviable, even in terms of Section 53(3) of the Act, would only be 100% of the tax; and, therefore, the penalty which can be levied under Section 53(3) of the Act is only Rs.67,622/-. Except for a sum of Rs.67,672/-, the impugned order of penalty is set aside in the light of the appellate order dated 27.12.2017.

The Writ Petition is disposed of accordingly. The miscellaneous petitions pending, if any, shall stand closed. No costs.

RAMESH RANGANATHAN, ACJ

M.S.K. JAISWAL, J

Date: 01.02.2018

MRKR