THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

TAX REVISION CASE No.5 of 2018

19.03.2018

Between:

M/s.Jupiter Agro Products Private Limited, Hyderabad

..Petitioner

and

State of Telangana,
represented by its State Representative,
Telangana VAT Appellate Tribunal, Hyderabad

..Respondent

Counsel for the petitioner: Mr.P.Karthik Ramana for Mr.S.Dwarakanath

Counsel for the respondent: J.Anil Kumar, standing counsel for Commercial Taxes (T.S.)

The Court made the following:

<u>ORDER</u>: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Tax Revision Case is filed against order, dated 31.01.2018, in T.A.No.486 of 2009 on the file of the Telangana Value Added Tax Appellate Tribunal, Hyderabad (for short 'the Tribunal'), by the assessee on the following questions of law.

> "(a) Whether the Tribunal, having chosen to remand the matter to the assessing authority to determine whether Section 5-AA of the APGST Act is applicable on facts ought to have further directed the assessing authority to consider the documentary evidence filed in support of the sales returns and the discounts claimed, which were part of the dispute in the entire assessment?
>
> (b) Whether the Tribunal ought to have directed the assessing authority to verify the claim towards sales returns and discounts, for which documentary evidence was filed before it as part of the re-assessment proceedings, in the event the authority comes to the conclusion that Section 5-AA of the Act is otherwise applicable?"

2. At the hearing, Mr.P.Karthik Ramana, learned counsel representing Mr.S.Dwarakanath, learned counsel for the petitioner-assessee, has submitted that while his client is not interested in pressing question (a), the Court may consider question (b) as the Tribunal has not visualized a situation where the Assessing Officer finds the petitioner-assessee as a brand or trademark holder so as to consider the alternative plea raised by the petitioner-assessee that the Assessing Officer has to verify its claim towards sales returns and discounts based on the documentary evidence.

3. Mr.J.Anil Kumar, learned standing counsel for Commercial Tases (T.S.) appearing for the respondent, has invited this Court's attention to the order of the Tribunal, wherein the facts of the petitioner-assessee raising additional ground pertaining to the second question of law and filing of additional evidence were recorded. He has, however, fairly conceded that in the event, the Assessing Officer, after remand, finds that the petitioner-assessee is a brand or trademark holder and it will be assessable for tax, the petitioner's plea to verify its claim towards sales returns and discounts needs to be considered based on the documentary evidence.

4. In the above facts and circumstances of the case, while not interfering with the order of the Tribunal to the extent of remand, the Assessing Officer is, however, directed to verify the claim of the petitioner-assessee towards sales returns and discounts with reference to the documentary evidence that may be produced by it, in the event he finds the petitioner-assessee as a brand or trademark holder.

5. Subject to the above direction, the Tax Revision Case stands disposed of.

C.V.NAGARJUNA REDDY, J

D.V.S.S.SOMAYAJULU, J

19th March, 2018
GHN