THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION NO.10481 OF 2018

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

In this Writ Petition, a mandamus is sought to declare the action of the first respondent in levying tax under the Andhra Pradesh Value Added Tax Act ("the Act" for brevity), by the assessment order in VAT Form 305 dated 04.10.2017, for the tax period 2013-14 to 2015-16. The petitioner has sought an alternative relief to direct the second respondent to entertain and dispose of the appeal filed by the petitioner on merits by setting aside his proceedings dated 31.01.2018.

Questioning the very same assessment order, the petitioner filed W.P.No.42700 of 2017 and a Division Bench of this Court (CVNR,J & KVL,J) dismissed the said Writ Petition, by its order dated 15.12.2017, permitting the petitioner to avail the alternative remedy of an appeal. While the petitioner filed the appeal, pursuant to the order of the Division Bench in W.P.No.42700 of 2017 dated 15.12.2017, they failed to deposit 12.5% of the disputed tax within the time stipulated in Section 31 of the Act, resulting in the appeal being rejected by the Appellate Deputy Commissioner, by his order dated 31.01.2018, following the law declared by a Division Bench of this Court in **M/s. Ankamma Trading Company, Takkellapadu and Others v. The Appellate Deputy Commissioner (CT), Guntur**[1] (Judgment in WP.No.13470 of 2009 and batch dated 11.02.2011).

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[1] 53 APSTJ 1

Since W.P.No.42700 of 2017 filed by the petitioner, questioning the very same assessment order, was dismissed by a Division Bench of this Court on 15.12.2017, it would be wholly inappropriate for a co-ordinate Bench to sit in judgment over the said decision and to now entertain the Writ Petition, challenging the very same assessment order, on its merits. In so far as the contention of Sri P.Girish Kumar, learned counsel for the petitioner, that the Appellate Deputy Commissioner should be directed to entertain the appeal preferred by the petitioner on merits is concerned, it must be borne in mind that the law declared by the Division Bench in **M/s. Ankamma Trading Company**[1] would also bind on a co-ordinate Division Bench; and, consequently, for non-payment of 12.5% of the disputed tax within the time stipulated under Section 31 of the A.P. VAT Act, no appeal can be entertained. As the order of the Appellate Deputy Commissioner rejecting the appeal is in conformity with the law declared by the Division Bench of this Court in **M/s. Ankamma Trading Company**[1], the said order does not necessitate interference in the present writ proceedings. Viewed from any angle, we see no reason to entertain the Writ Petition.

The Writ Petition fails and is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(RAMESH RANGANATHAN, J)

(KONGARA VIJAYA LAKSHMI, J)

4th October 2018
RRB