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

TREVC No. 15 of 2018

ORDER: *(per Hon'ble Sri Justice Sanjay Kumar)*

This revision by the State under Section 34 (1) of the Andhra Pradesh Value Added Tax Act, 2005 read with Rule 46 of the Rules framed thereunder, seeks to raise the following substantial questions of law:

> "1. Whether the Tribunal of the Co-ordinate Bench is correct in deciding the issue wherein a divergence of opinion expressed earlier by the then Judicial Member and the Departmental Member on the same issue contrary to clause (c) of Explanation to Section 3 of the APVAT Act, 2005?
>
> 2. Whether LPG used in preparing food items in Hotels and Restaurants is eligible to claim input tax credit as Section 13(4) of AP VAT Act, 2005 read with clause (q) of sub-rule (2) of Rule 20 of the APVAT Rules 2005 disqualifies the said claim?"

Sri S. Suri Babu, learned special standing counsel for Commercial Taxes, State of Andhra Pradesh, would inform this Court that the second question of law framed supra fell for consideration before a Division Bench of this Court comprising CVNR,J and one of us, TA,J, in TREVC No.61 of 2017 and by order dated 08.12.2017 passed therein, the Bench held against the Revenue.

A copy of the said order is placed on record. Perusal thereof reflects that the Bench considered Rule 20(2)(q) of the Andhra Pradesh Value Added Tax Rules, 2005 and opined that LPG used in hotels and restaurants is not excluded thereunder for availing input tax credit. The contention of the State that for availing such input tax credit, it was not necessary that LPG must have been used in furnaces and boilers was rejected and the Bench opined that the essential pre-requisites for rendering LPG eligible for input tax credit were satisfied.

In the light of the above order, the second question of law requires no reconsideration as it stands settled by the afore-stated adjudication.

Sri S. Suri Babu, learned counsel, would fairly concede that as the second question of law requires no consideration, the first question of law cannot survive independently.

In that view of the matter, we see no grounds to entertain and adjudicate this tax revision case.

The tax revision case is accordingly dismissed. No order as to costs.

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JUSTICE SANJAY KUMAR

Date: 29.06.2018

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JUSTICE T. AMARNATH GOUD

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