

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

AND

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 23637 of 2015

ORDER:- (per Hon'ble Sri Justice G. Chandraiah)

When the matter is taken up for admission, learned Standing Counsel for Commercial Taxes (Telangana), fairly submits that the subject matter of this writ petition is squarely covered by the orders passed by this Court in W.P.No.30076 of 2014, dated 14.10.2014.

2. The operative portion of order dated 14.10.2014 in W.P.No.30076 of 2014, reads as under:

“The fact remains that the petitioner, in their monthly returns of May, 2014, claim to have an excess Input Tax Credit of Rs.1,29,82,506/-. This figure, in the absence of such excess input tax credit being adjusted against the tax payable by the petitioner could not have been treated as “zero” by the Department without even an assessment order being passed and without determining the actual excess Input Tax Credit available to the petitioner. Respondent No.1 is therefore directed to include the excess Input Tax Credit of Rs.1,29,82,506/-, as claimed by the petitioner in the monthly returns for the month of May, 2014, in the subsequent monthly returns. It is made clear that this order shall not preclude respondent No.1 from assessing the petitioner to tax under the Act after giving them an opportunity of being heard; and therefore, determine the actual excess Input Tax Credit entitlement of the petitioner.”

3. Accordingly, in the present case, as the petitioner-company claims to have an excess Input Tax Credit of Rs.1,81,89,311/- due to the petitioner, for the month of May,

2014, this figure in the absence of such excess Input Tax Credit being adjusted against the tax payable by the petitioner could not have been treated as “zero” by the Department without even an assessment order being passed and without determining the actual excess Input Tax Credit available to the petitioner. Respondent No.2 is therefore directed to include the excess Input Tax Credit of Rs.1,81,89,311/-, as claimed by the petitioner in the monthly returns for the month of May, 2014, in the subsequent monthly returns. It is made clear that this order shall not preclude respondent No.2 from assessing the petitioner to tax under the Act after giving them an opportunity of being heard; and therefore, determine the actual excess Input Tax Credit entitlement of the petitioner.

4. The writ petition is disposed of, accordingly. No costs. Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

G. CHANDRAIAH, J

CHALLA KODANDA RAM, J

31st July, 2015

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