

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER 2020

BEFORE

THE HON'BLE MR. JUSTICE NATARAJ RANGASWAMY

WRIT PETITION NO.12091 OF 2020

BETWEEN:

M/S. SKILL TECH ENGINEERS &
CONTRACTORS PVT LTD
REPRESENTED BY ITS MANAGING DIRECTOR
K. SHIVASHANKAR S/O. KARIGOWDA
AGED ABOUT 58 YEARS
218 KNS ROAD
MYSURU-570 024

... PETITIONER

[BY SRI. ARAVINDA S N, ADVOCATE]

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
KARNATAKA GOVERNMENT SECRETARIAT
VIDHANA SOUDHA
BANGALORE-560 001
2. COMMISSIONER OF COMMERCIAL TAXES
VANIJA THEREGE KARYALAYA
KALIDASA ROAD, BANGALORE-560 009
3. THE JOINT COMMISSIONER
OF COMMERCIAL TAXES
SHESHADRI BHAVANA
DEWANS ROAD, MYSORE-570 024

4. ASSISTANT COMMISSIONER OF
COMMERCIAL TAXES
LVO 200, SHESHADRI BHAVANA
DEWANS ROAD, MYSORE-570 024

... RESPONDENTS

[BY SRI. C.N.MAHADESHWARAN, AGA]

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE RE-ASSESSMENT ORDER (PASSED UNDER KVAT ACT VIDE NO.378345246 DATED 30.09.2020 ANNEX-M OF THIS WRIT PETITION) DATED 30.09.2020 PASSED BY THE R-4 AND ETC.

THIS PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner has challenged the re-assessment order dated 30.09.2020 in this writ petition passed by the respondent No.4. The petitioner has also sought for changing the Assessing Officer for re-consideration of the re-assessment proceedings.

2. The learned counsel for the petitioner submits that pursuant to the re-assessment order dated 30.09.2020 he has submitted a representation dated 08.10.2020 bringing to the notice of the Assessing

Officer, various mistakes in the re-assessment order and contends that unless these mistakes are corrected, the petitioner would be in no position to file an appeal. The petitioner therefore, contends that appropriate directions be issued to the Assessment Officer to consider the representation dated 08.10.2020 and in the meanwhile not to take any precipitative action against the petitioner for recovery of the tax assessed. Since, the petitioner has an efficacious remedy under the KVAT Act, 2003 the petitioner cannot challenge the order of assessment in a writ petition under Article 226 of the Constitution of India. Nonetheless, the respondent No.4 was duty bound to consider the representation of the petitioner dated 08.10.2020 to ascertain whether there were any mistakes in the order of re-assessment. In that view of the matter, except a direction to the respondent No.4 to consider the representation dated 08.10.2020, the petitioner is not

entitled to any relief in this writ petition. Hence, the following order:

ORDER

Writ petition is ***disposed of*** directing the respondent No.4 to consider the representation of the petitioner dated 08.10.2020 within a period of fifteen days from the date of receipt of a certified copy of this order. Until the representation is considered, the respondent No.4 is directed not to take any precipitative action against the petitioner to recover the re-assessed tax amount.

Sd/-
JUDGE

RB