

HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINTH DAY OF JANUARY
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO
AND
THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO: 23292 OF 2020

Between:

1. M/s Spacenet Enterprises India Limited, Company registered under Indian Companies Act, 1956 Having office at Royal Pavilion Apartment, H. No. 6-3-787, Flat No.1003, Block- A, 10th Floor, Ameerpet, IN Hyderabad, Telangana-500016, Represented by its Director Mr.D.V.S Prakash Rao
2. Sri. D.V.S.Prakash Rao, S/o. Sri. D. Jaganadha Rao Aged about 51 years, Occ Director for M/s Spacenet Enterprises India India Limited R/o.Plot No.68 and 69, Siri Constructions, Flat No.401, Anjali Gardens, Puppalaguda, Manikonda, Hyderabad.

...PETITIONERS

AND

1. Government of Telangana, Represented by the Principal Secretary, Department of Revenue, Commissioner of Commercial Taxes Department, C.T Complex, Nampally, Hyderabad-500 001.
2. Commercial Tax Officer, Commercial Taxes Department, Jubilee Hills 1 Circle, Punjagutta Division, Hyderabad. At, 5-9-279, 7th Floor, B Block, Mayur Kushal Complex, Beside chermas, Abids, Hyderabad-50001.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ / order especially one or more particularly one in the nature of writ of Mandamus by declaring the Order dated 27.03.2020 passed by the 2nd Respondent (Commercial Tax Officer, Commercial Taxes Department, Jubilee Hills 1 Circle, Punjagutta Division, Hyderabad) as illegal and void ab-initio, arbitrary.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay the operation of the attachment order issued by the 2nd Respondent (Commercial Tax Officer, Commercial Taxes Department, Jubilee Hills 1 Circle, Punjagutta Division, Hyderabad) to HDFC Bank limited, Kavuri Hills Branch, Hyderabad wherein the 1st Petitioner is holding a current account bearing No.05212000012303.

Counsel for the Petitioner : SRI SATHAKARNI K

Counsel for the Respondents: SRI M. GOVIND REDDY,

SPECIAL SC FOR COMMERCIAL TAXES

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

AND

THE HONOURABLE SRI JUSTICE T. AMARNATH GOUD

Writ Petition No.23292 of 2020

ORDER : (*per Hon'ble Sri Justice M.S. Ramachandra Rao,*

In this Writ Petition, the petitioner is challenging Assessment Order No.36466 dt.27.03.2020 passed by 2nd respondent for the period April, 2015 to March, 2016 under the provisions of the Central Sales Tax Act, 1956 (**for short, 'the Act'**).

2. The counsel for petitioner contends that though the impugned Assessment Order refers to issuance of a show-cause notice, a Reminder Notice dt.18.11.2019 and a Final Notice dt.06.03.2020, none of these notices were served on petitioner and no personal hearing was also afforded to petitioner.

3. The counsel for petitioner further contends that petitioner came to know about passing of the order on receipt of a notice from its Banker-HDFC Bank that an attachment order was issued under Section 29 of the TS VAT Act, 2005 by the 2nd respondent demanding tax pursuant to the said Assessment Order.

4. Sri M. Govind Reddy, learned Special Counsel for Commercial Taxes appearing for respondents, does not dispute that no notice was

served on petitioner before passing the impugned Assessment Order and that no personal hearing was also afforded to petitioner.

5. Therefore, we are satisfied that there has been a violation of principles of natural justice which has caused prejudice to petitioner.

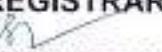
6. Accordingly, the Writ Petition is allowed. The impugned Assessment Order No.36466 dt.27.03.2020 passed by 2nd respondent for the period April, 2015 to March, 2016 under the provisions of the Act is set aside; and the matter is remitted to 2nd respondent for fresh consideration.

7. The 2nd respondent is directed to serve a show-cause notice on the petitioner indicating the turnover proposed to be assessed to tax and the tax proposed to be levied thereon in accordance with Rule 64(1) (b) of the Telangana VAT Rules, 2005.

8. The petitioner is granted six (06) weeks' time from the date of receipt of such show-cause notice to file objections thereto along with supporting material. A personal hearing shall also be afforded to petitioner by the 2nd respondent and then a reasoned order shall be passed by the 2nd respondent in accordance with law and communicate it to petitioner.

9. Accordingly, the Writ Petition is allowed as above. No order as to costs.

10. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

SD/-I.NAGALAKSHMI
ASSISTANT REGISTRAR
SECTION OFFICER


To,

1. The Principal Secretary, Department of Revenue, Commissioner of Commercial Taxes Department, Government of Telangana, C.T Complex, Nampally, Hyderabad-500 001.
2. Commercial Tax Officer, Commercial Taxes Department, Jubilee Hills 1 Circle, Punjagutta Division, Hyderabad. At, 5-9-279, 7th Floor, B Block, Mayur Kushal Complex, Beside chermas, Abids, Hyderabad-50001.
3. One CC to Sri Sathakarni K Advocate [OPUC]
4. One CC to Sri M. Govind Reddy, Special SC for Commercial Taxes, Advocate [OPUC]
5. Two CD Copies

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HIGH COURT

DATED:29/01/2021

ORDER

WP.No.23292 of 2020



ALLOWING THE WP

WITHOUT COSTS

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REPO
06/02/2021