

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 HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO
AND
THE HON'BLE SRI JUSTICE T. AMARNATH GOUD

WRIT PETITION NO: 24240 OF 2020

Between:

M/s. P.V.K. Engineers Pvt. Ltd., Plot No.23, Phase IV, IDA Jeedimetla, Hyderabad, R.R. District, Telangana - 500055, rep. by its Director, P.Venkata Krishna Reddy.

...PETITIONER

AND

1. The Commercial Tax Officer/Assistant Commissioner (ST) and another, IDA Gandhi Nagar Circle, Hyderabad Rural Division, 2nd Floor, North Wing, Gagan Vihar Complex, M.J. Road, Opp. Gandhi Bhavan, Nampally, Hyderabad, Telangana 500001.
2. The State of Telangana, rep. by the Principal Secretary to the Government, Revenue (CT) Department, Telangana Secretariat Buildings, Hyderabad.

...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 an appropriate Writ, Order or Direction, more particularly in the nature of MANDAMUS holding that the impugned Ex-Parte Assessment Order vide AO No.26097, dated 12/03/2020 passed by the First Respondent for the Tax Periods 2015-16 under the Central Sales Tax Act, 2005, without serving the show cause notice on the Petitioner and without giving reasonable opportunity to the Petitioner, and imposing tax on Direct Export Sales which are exempt from tax as per S. 5(1), on Sales in the Course of Import which are exempt from Tax as per S. 5(2) and on Inter-State Sales to SEZ Units without giving opportunity to the Petitioner to file the Documentary Evidence available with it, is violative of the principles of natural justice, arbitrary, without basis, contrary to law, and illegal and consequently set aside the same.

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 grant stay of all further proceedings, including collection of the disputed tax, pursuant to the impugned Assessment Order passed by the First Respondent vide AO No.26097, dated 12/03/2020 for the Assessment Year 2015-16 under the Central Sales Tax Act, 1956, pending disposal of the above Writ Petition.

Counsel for the Petitioner: SRI. G. NARENDRA CHETTY

Counsel for the Respondent No 1: GP FOR COMMERCIAL TAXES (TG)
Counsel for the Respondent No 2: SRI M. GOVIND REDDY,
SPECIAL COUNSEL 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.24240 of 2020

ORDER :

In this Writ Petition, petitioner assails Assessment Order No.26097 dt.12.03.2020 passed by 1st respondent for the period April, 2015 to March, 2016 under the Central Sales Tax Act, 1956 (for short, 'the Act').

2. Petitioner contends that the office of 1st respondent started demanding payment of alleged arrears of tax relating to Assessment Year 2015-16 under the Central Sales Tax Act, 1956, and petitioner then approached the 1st respondent and came to know about the passing of the impugned Assessment Order by the 1st respondent which was actually served on petitioner on 22.12.2020.

3. The petitioner contends that the impugned order mentions that a show-cause notice was issued to it, that it had filed a response form electronically on 17.07.2019, and that its representative had appeared for personal hearing on 09.03.2020, but, in fact, no such show-cause notice was ever served on petitioner and it did not file any response or appear for personal hearing on 09.03.2020.

4. Sri M. Govind Reddy, the learned Special Counsel for Commercial Taxes, appearing for respondents, does not dispute the above facts.

5. In this view of the matter, we are satisfied that there has been a violation of principles of natural justice causing prejudice to petitioner.

6. Accordingly, the Writ Petition is allowed; the impugned Assessment Order No.26097 dt.12.03.2020 passed by 1st respondent, for the period April, 2015 to March, 2016, is set aside; and the matter is remitted to 1st respondent for fresh consideration.

7. The 1st respondent is directed to issue a show-cause notice indicating the turnover proposed to be taxed as well as the tax proposed to be levied in accordance with the Rule 64-1(b) of the Telangana VAT Rules, 2005; petitioner is granted six (06) weeks' time from the date of receipt of copy of such show-cause notice to file objections thereto along with supporting material; a personal hearing shall be afforded to petitioner by 1st respondent; and then a reasoned order shall be passed by 1st respondent in accordance with law and communicated to petitioner.

8. Accordingly, the Writ Petition is allowed as above with the above directions. No order as to costs.

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

SD/-N.CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Commercial Tax Officer/Assistant Commissioner (ST), IDA Gandhi Nagar Circle, Hyderabad Rural Division, 2nd Floor, North Wing, Gagan Vihar Complex, M.J. Road, Opp. Gandhi Bhavan, Nampally, Hyderabad, Telangana 500001.
2. The Principal Secretary to the Government, Revenue (CT) Department, State of Telangana, Telangana Secretariat Buildings, Hyderabad.
3. One CC to Sri G. Narendra Chetty, Advocate [OPUC]
4. One CC to Sri M. Govind Reddy, Special Counsel for Commercial Taxes [OPUC]
5. Two CCs to GP for Commercial Tax, High Court for the State of Telangana at Hyderabad. [OUT]
6. Two CD Copies

CHR

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HIGH COURT
DATED:29/01/2021

ORDER
W.P.No.24240 of 2020



ALLOWING THE WRIT PETITION
WITHOUT COSTS

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5/2/21
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