

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

FRIDAY, THE TWENTY NINTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND

THE HONOURABLE SRI JUSTICE LAXMI NARAYANA ALISHETTY

WRIT PETITION NO: 24332 OF 2023

Between:

Eswarapregada Usha Rani, W/o. Hari Babu, Proprietrix of M/s. Sri Sri Sri Automobiles, Khammam, at D.No.15-9-530, Wyra Road, Khammam, Telangana.

.....PETITIONER

AND

1. The Commercial Tax Officer II, D.No.1-9-35/48/7, FCI Bypass Road, Khammam, Telangana.
2. The State of Telangana, rep by its Principal Secretary to Government, Commercial Taxes Department, Secretariat Buildings, Tank Bund Road, Hyderabad.

(Respondent No.2, is impleaded as per Court Order dated 29-09-2023, vide I.A No.2 of 2023 in WP.No.24332 of 2023)

.....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 or Direction, more particularly one in the nature of Writ of Mandamus, quashing the two notices, VAT 205A and VAT 203A, both dated 15/6/2023 issued by the respondent as wholly without jurisdiction, arbitrary, illegal and violative of fundamental rights of the Petitioner under Articles 14 and 19 of the Constitution of India and violative of principles of natural justice.

I.A.NO:1 OF 2023

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 suspend the operation of the impugned two notices, VAT 205A and VAT 203A, both Dt. 15/6/2023 issued by the Respondent pending disposal of the writ petition in the interests of justice which otherwise would result in grave hardship to the petitioner.

Counsel for the Petitioner : SRI E.HARI BABU

Counsel for the Respondents : SRI K.RAJI REDDY, SPL SC FOR COMMERCIAL TAXES

The Court made the following ORDER

THE HON'BLE SRI JUSTICE P.SAM KOSHY
AND
THE HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY
WRIT PETITION No.24332 of 2023

ORDER: (*per Hon'ble Sri Justice P.SAM KOSHY*)

Heard Mr. E. Hari Babu, learned counsel for the petitioner and Mr. K. Raji Reddy, learned Special Standing Counsel for Commercial Taxes appearing for respondents. Perused the record.

2. The challenge in the present writ petition is to the Show Cause Notices vide VAT 203A (Penalty) and VAT 205A (Interest), both dated 15.06.2023, issued by the respondent imposing penalty upon the petitioner to the tune of Rs.15,51,803/- and 2,45,515,/- respectively, amounting in all to Rs.17,97,318/-.

3. The matter when it was taken up taken up for hearing on the previous date of hearing, learned counsel for the Department had taken time to seek instructions as to whether the impugned order would be barred by limitation or not.

4. Today, when the matter is taken up for hearing, learned counsel for the Department submits that as per the statutes, the limitation is four (4) years and admittedly, in the instant case, the order of penalty has been issued much beyond the period of four years prescribed.

5. Given the fact that the impugned Notices had been issued much beyond the prescribed period of time under the TS VAT Act, 2005, the

two penalty show cause notices vide VAT 203A (Penalty) and VAT 205A (Interest), issued by the respondent deserves to be and are accordingly set aside/quashed.

6. Accordingly, the Writ Petition stands allowed. No order as to costs.

As a sequel, miscellaneous applications pending if any in these writ petitions, shall stand closed.

**SD/-P. PADMANABHA REDDY
ASSISTANT REGISTRAR**
//TRUE COPY//

SECTION OFFICER

To

1. The Commercial Tax Officer II. D.No.1-9-35/48/7, FCI Bypass Road, Khammam. Telangana.
2. One CC to Sri K.Raji Reddy. Spl SC For Commercial Taxes (OPUC)
3. One CC to Sri E.Hari Babu. Advocate [OPUC]
4. Two CD Copies

SA

BS

Anx

HIGH COURT

DATED:29/09/2023

ORDER

WP.No.24332 of 2023



**ALLOWING THE W.P
WITHOUT COSTS.**

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24/11/23
ANR