HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

TUESDAY , THE TWENTY FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIFTEEN

:PRESENT:

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY
AND
THE HON'BLE DR JUSTICE B.SIVA SANKARA RAO

WP .NO:40108 of 2014

Between:

M/s. Trimex Sands Private Limited, 8-2-623/A, 2nd Floor, Sri Dura Towers, Flat No. 201, Road No.10, Banjara Hills, Hyderabad. Represented by its General Manager (Accounts) Mr. C.S. Mallikarjuna Rao.

..... Petitioner

AND

1 The Commercial Tax Officer, Srikakulam Circle, Srikakulam District.
2 The Commercial Tax Officer, Jubilee Hills Circle, Mayur Kushal Complex,
7th Flour, B Block, Abids, Hyderabad.
3 The Commissioner of Commercial Taxes, State of Andhra Pradesh, Hyderabad.
4 The Commissioner of Commercial Taxes, State of Telangana, Hyderabad.
5 State of Andhra Pradesh. Rep. by its Prl Secretary Revenue (CT-II) Department A.P. Secretariat, Hyderabad.
6 State of Telangana, Rep. by its Prl Secretary Revenue (CT-II) Department
A.P. Secretariat, Hyderabad.

.....Respondents

Petition under Article 226 praying that in the circumstances stated in the affidavit filed herein, the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Mandamus or any other Writ or order or direction: (A) declaring the action of the 1st and 2'd respondent in issuing demand notices for payment of output tax of Rs.3,10,40,360/- (Rs. 1,01,51,223/-under APVAT Act 2005 and Rs. 5,86,102/- under CST for the month of September 2014 and Rs. 71,56,055/- under APVAT Act 2005 and Rs. 1,31,46,980/- under CST Act 1956 for the month of October 2014). as unpaid output Tax without either refunding or adjusting the same from out of the input tax credit amount of Rs.5,52,01,674/- available, in terms of the provisions of the Andhra Pradesh Value Added Tax Act as arbitrary, illegal, without jurisdiction and set aside the same, (B) declaring the action of the 1s1 respondents in issuing Form VAT 203A notices dt.19-12-2014 proposing to levy Rs.17,30,727/- as penalty on the alleged unpaid Value Added Tax for the months of September and October 2014, without referring to the quantum of the Input Tax Credit available to the petitioner as unjust and unsustainable under law; and (C) Consequently direct the 1St respondent. not to raise or enforce any demand for payment of output tax for the months of September and October , 2014 onwards till the amount of Rs.5,52,01,674/- available as input tax credit as on 31-07-2014 is adjusted fully towards the output tax payable from the month of September 2014 onwards by setting aside the demand notices dt.19-12-2014 issued under APVAT Act 2005 and CST Act 1956, as well as the penalty notices dt.19-12-2014 for the months of September and October 2014,.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed herein and order of the High Court dated 30-12-2014 made in WPMP No.50299 of 2014 and upon hearing the arguments of SRI BHASKAR REDDY VEMIREDDY Advocate for the Petitioner GP for Commercial Taxes (TG) for Respondent Nos.2,4 & 6 and of GP for Commercial Taxes for Respondent Nos.1, 3 & 5, the Court made the following.

ORDER:

It is submitted that while passing interim order dated 30.12.2014, respondents were given liberty to pass orders under the Central sales Tax Act for the assessment years 2012-13 and 2013-14 with a direction not to take any coercive steps for recovery of tax due under the VAT Act, to the extent the petitioner has input tax credit, for a period of eight weeks from the date of the said order.

It is submitted by the learned Government Pleader for Commercial Taxes that orders are passed under CST Act and no orders are passed under the VAT Act.

Hence, interim order granted by this Court on 30.12.2014 shall continue for a further period of four weeks from today.

Post after two weeks.

ASSISTANT REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To

1 The Commercial Tax Officer, Srikakulam Circle, Srikakulam District.
2 The Commercial Tax Officer, Jubilee Hills Circle, Mayur Kushal Complex,
7th Flour, B Block, Abids, Hyderabad.
3 The Commissioner of Commercial Taxes, State of Andhra Pradesh, Hyderabad.
4 The Commissioner of Commercial Taxes, State of Telangana, Hyderabad.
5 The Prl Secretary Revenue (CT-II) Department, State of Andhra Pradesh
A.P. Secretariat, Hyderabad.
6 The Prl Secretary Revenue (CT-II) Department, State of Andhra Pradesh,
A.P. Secretariat, Hyderabad. **(1 to 6 by RPAD)**
7. Two CC to GP for Commercial Taxes (TG), High Court, Hyderabad (OUT)
8. Two CC to GP for Commercial Taxes (AP), High Court, Hyderabad (OUT)
9. One CC to SRI BHASKAR REDDY VEMIREDDY Advocate (OPUC)
10. One spare copy.

Tvr

HIGH COURT

RSRJ & DR SSRBJ

ORDER

DATED: 24-02-2015

WP NO.40108 OF 2014

POST AFTER TWO WEEKS

DRAFTED: TVR
DATED: 25-02-2015

HIGH COURT

RSRJ & DR SSRBJ

ORDER

DATED: 24-02-2015

WP NO.40108 OF 2014

POST AFTER TWO WEEKS