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

The Hon'ble Sri Justice V.RAMASUBRAMANIAN
and
The Hon'ble Sri Justice ABHINAND KUMAR SHAVALI

Writ Petition No.32361 of 2017

Between:

MRF Limited, Survey No.9, NH9, Sadasivpet, Ankanpally, Maddikunta, Medak District, Represented by its Deputy General Manager-Acccounts, S/o Surendra Nath Mukherjee.

… Petitioner

Vs.

State of Telangana, represented by its Principal Secretary (Revenue) CT, Telangana Secretariat, Hyderabad and 2 others

.. Respondents

For Petitioner : Mr. K. Vivek Reddy,

For Respondents : T. Vinod Kumar, Special Standing counsel

HON'BLE MR JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE MRS. JUSTICE ABHINAND KUMAR SHAVALI

Writ Petition No.32361 of 2017

ORDER: ***(V. Ramasubramanian, J)***

The petitioner has come up with the above writ petition, challenging a show cause notice issued under the Telangana Tax on Entry of Goods into Local Areas Act, 2001.

2. Heard Mr. K. Vivek Reddy, learned counsel for the petitioner. Mr. T. Vinod Kumar, learned special standing counsel takes notice for the respondents.

3. The impugned show cause notice is challenged on the ground that it is vitiated by vagueness in the sense that the goods allegedly imported by the petitioner that are liable to tax, are not clearly indicated in the show cause notice and that in any case even the goods, imported by the petitioner from other states, are only used as in puts for manufacture of other goods and that therefore, there cannot be a tax under the Act.

4. The objections raised by the petitioner cannot be termed as objections that go to the root of the jurisdiction of the respondents. The question as to whether the goods imported by the petitioner from other States fall under any of the entries, is a question of fact. Similarly, the question whether the goods imported by the petitioner are used only as inputs for the manufacture of other goods, is also a question of fact. If the petitioner is able to establish by evidence that the goods imported by them do not fall under any of the entries or if

the petitioner is able to establish that the goods imported by them from other states are used only as inputs for the manufacture of other goods, then the respondent would lose jurisdiction to deal with them. But since these two questions happen to be questions of fact, it will be appropriate for the petitioner to submit a reply in response to the show cause notice, without which the fundamental parameters for deciding the lack of jurisdiction on the part of the respondents cannot be decided.

Therefore, the writ petition is dismissed leaving it open to the petitioner to send a reply to the show cause notice. Since the time for submission of the objections has been extended finally up to 30.09.2017 and since we are directing the petitioner to furnish evidence, the respondents shall give time to the petitioner up to 10.10.2017 to file their objections along with evidence. Thereafter, the petitioner shall give an opportunity of personal hearing to the petitioner and pass final orders in accordance with law.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

ABHINAND KUMAR SHAVALI, J

Date: 21-09-2017

Ksn