*THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

*THE HON'BLE MS. JUSTICE J. UMA DEVI

+ <u>WRIT PETITION No.10929 of 2018</u>

%Date: 13.04.2018

Between:

# Refex Energy Limited, Mumbai,
Rep.by its authorized signatory

.. Petitioner

Vs.

$ Commercial Tax Officer,
Mahankali Street Circle,
Secunderabad Division,
Abids, Hyderabad and others

.. Respondents

! Counsel for petitioner : Mr. Kailsh Nath P.S.S.

^ Counsel for respondents : Mr. Govind Reddy M.

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>HEAD NOTE:

? CASES REFERRED: ----

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WRIT PETITION No.10929 of 2018

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

Challenging an order of assessment passed under the Telangana Value Added Tax Act, 2005, a dealer has come up with the above writ petition.

2. Heard Mr.R. Raghunandan, learned senior counsel appearing for the petitioner and Mr.M.Govind Reddy, learned Standing Counsel appearing for the respondents.

3. The impugned order is challenged on the ground that the petitioner was not given adequate opportunity to defend themselves against the proposed levy.

4. The impugned order proceeds on the basis that the show cause notice dated 10.08.2016 issued in Form VAT 305 A was served on the dealer. The dealer did not file a reply despite receiving the notice on 10.08.2016. It is also stated in the impugned order that by another notice dated 18.08.2016, the dealer was given one more opportunity, but the same was also not availed.

5. But, it is the case of the petitioner that they registered themselves on the rolls of the 1st respondent in the year 2013 when they bagged a contract in Srikakulam District. Upon completion of the project in the year 2014, the temporary office of the petitioner was vacated permanently. It is claimed by the petitioner that they were filing returns and depositing the tax from time to time. It appears that the petitioner's Corporate Office is in Mumbai and a consultant was engaged in Hyderabad. Therefore, there appears to be a communication gap.

6. The claim of the petitioner is that transactions, which fall within the purview of the Central Sales Tax Act, 1956, have been brought to tax and even the turn-over relating to high sea sales and Form E1 sales made in the course of inter state transactions have been included. The petitioner claims that they have proof to show all this.

7. In the light of the above, we are of the view that one opportunity can be granted to the petitioner. But, since the petitioner has come up after more than a year of the impugned order, the petitioner agreed to pay 20% of the demand, to enable this Court to remand the matter back to the Assessing Officer. Therefore, in the light of the above, the writ petition is disposed of to the following effect:

1) The petitioner shall make payment of 20% of the demand within a period of four (4) weeks from the date of receipt of a copy of this order.

2) Upon the deposit being made, the impugned order will stand set aside.

3) Once the impugned order stands set aside, the Assessing Officer shall fix a date for personal hearing. On the said date, the petitioner or their representative shall file their objections along with necessary forms and thereafter, the Assessing Officer may pass orders afresh. Till then, no coercive steps shall be taken.

4) The order of freezing the bank accounts shall be released.

Consequently, miscellaneous petitions if any pending shall s issued missed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

April 13, 2018
KTL