* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms. JUSTICE J.UMA DEVI

+ Writ Petition Nos.13250, 13336, 13338, 13497 and 13499 of 2018

% 01-5-2018

M/s. The Singareni Collieries Co. Ltd.,
Rep. by its Deputy Finance Manager,
Mr. K.Hrudaya Raju, Kothagudem-507 101,
Khammam District

... Petitioner

Vs.

$ 1. Assistant Commissioner (CT), LTU,
Warangal Division, Warangal

2. State of Telangana, Rep. by its Secretary to Govt.,
Transport Dept., Telangana State, Hyderabad

... Respondents

! Counsel for the Petitioner: Mr. S.Dwarakanath

Counsel for Respondents 1&2: M/s. T.Vinod Kumar, J.Anil Kumar and M.Govind Reddy, Special Standing Counsel

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> Head Note:

? Cases referred:

1. (2008) 13 VST 15 (AP)
2. AIR 2016 SC 5617

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms. JUSTICE J.UMA DEVI

Writ Petition Nos.13250, 13336,
13338, 13497 and 13499 of 2018

Common Order:

The Singareni Collieries Company Limited, which is a Public Sector Undertaking jointly owned by the Government of Telangana and the Union of India, have come up with the above writ petitions challenging the orders of assessment passed under the Telangana Tax on Entry of Goods into Local Areas Act, 2001, for the Assessment Years 2012-13, 2013-14, 2014-15, 2015-16 and 2016-17.

2. Heard Mr. S.Dwaranakath, learned counsel for the petitioner and M/s. T.Vinod Kumar, J.Anil Kumar and M.Govind Reddy, learned Special Standing Counsel for the respondents.

3. The petitioner is a dealer registered under the Telangana Value Added Tax Act, 2005, on the file of the Assistant Commissioner (CT) (LTU), who is the 1st respondent herein. After the Constitution Bench of the Supreme Court upheld the Telangana Tax on Entry of Goods into Local Areas Act, 2001, the 1st respondent issued a show cause notice dated 06-11-2017 asking for details of goods along with invoice numbers, dates, addresses of the dealers and the value of the goods purchased from other States on which there would be liability to pay entry tax. The petitioner filed

a reply dated 13-11-2017 requesting details of the relevant 'C' Form information and also seeking three months' time to assimilate the facts and put forth the objections.

4. Thereafter, six show cause notices were issued on 28-12-2017 for the Assessment Years 2011-12 to 2016-17, proposing to levy entry tax to the tune of Rs.94,67,08,003/-. Though the petitioner requested three months' time to arrange for perusal of voluminous documents, the 1st respondent provided only 15 days' time to file objections. On 02-01-2018, the 1st respondent furnished soft copies of the 'C' Forms for the entire period.

5. By a letter dated 13-01-2018, the petitioner made a request for at least one month time for filing objections in respect of the Assessment Year 2011-12, two months' time for the Assessment Year 2012-13, three months' time for the period 2013-14 and four months' time for the rest of the Assessment Years.

6. Since the 1st respondent granted shorter duration of time, the petitioner filed objections on 13-02-2018 and 05-3-2018 respectively in respect of the Assessment Years 2011-12 and 2012-13. The request for further time in respect of the remaining Assessment Years was not considered and the 1st respondent fixed personal hearing.

7. Thereafter, the 1st respondent passed individual assessment orders for the years 2012-13 to 2016-17. It is

against these orders that the petitioner has come up with the above writ petitions.

8. The main and perhaps the only grievance of the petitioner is that they were not granted adequate time to peruse the records, file their objections and make their submissions. The opportunity to show cause and the opportunity of personal hearing, according to the petitioner, have been turned into empty formalities. Therefore, the petitioner prays for setting aside the orders of assessment.

9. The petitioner also has raised a point with regard to limitation under Section 21(4) and contends that Section 21(7) of the Act will not apply to cases of this nature and that the same has not been considered.

10. At the outset, it should be pointed out that the petitioner is not a fly-by-night operator. It is a Public Sector Undertaking wholly owned by the Government of Telangana and the Union of India. The constitutional validity of the Telangana Tax on Entry of Goods into Local Areas Act, 2001, was challenged before this Court and this Court upheld the challenge in ***Sree Rayalaseema Alkalies and Allied Chemicals Ltd. v. State of Andhra Pradesh***[1]. But the Supreme Court allowed the appeals by a decision in ***Jindal Stainless Ltd. v. State of Haryana***[2]. This is why show cause notices came to be issued only in the year 2017.

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[1] (2008) 13 VST 15 (AP)
[2] AIR 2016 SC 5617

11. Considering the long history of the litigation, the 1st respondent ought to have granted sufficient time to the petitioner to defend itself against the proposals. It is seen that the turnover in question was so huge that the records were unimaginably voluminous. An opportunity of a hearing cannot be turned into an empty formality. Therefore, we are of the considered view that the petitioner should be granted sufficient opportunities to defend themselves against the proposals.

12. In view of the above, all the writ petitions are allowed, the orders impugned therein are set aside and the matters remitted back to the 1st respondent for a fresh consideration, as stipulated hereunder:

(i) The petitioner shall file their objections to the show cause notices, by the end of June, 2018, insofar as the Assessment Year 2012-13 is concerned, by the end of July, 2018, insofar as the Assessment Year 2013-14 is concerned, by the end of August, 2018, insofar as the Assessment Year 2014-15 is concerned, by the end of September, 2018, in respect of the Assessment Year 2015-16 and by the end of October, 2018, in respect of the Assessment Year 2016-17;

(ii) The 1st respondent shall, after the receipt of the objections, shall fix a date for personal hearing separately in respect of each of the Assessment Years, provide a fair opportunity of hearing and thereafter pass independent orders; and

(iii) We make it clear that the proceedings in respect of each Assessment Year can go on independent of each other. In other words, the personal hearing and the passing of the final order in respect of each Assessment Year can independently take place without waiting for the filing of objections or personal hearing in respect of the other years.

The interlocutory applications, if any, pending in these writ petitions shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

J.UMA DEVI, J.

01st May, 2018.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms. JUSTICE J.UMA DEVI

Writ Petition Nos.13250, 13336,
13338, 13497 and 13499 of 2018
(Common Order – per VRS, J.)

01st May, 2018.
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