

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

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND

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

+ W.P.NO.14221 of 2018

% Date: 24-04-2018

Between:

M/s. K.S.R. Projects (India) Private Limited,
194/A, M.L.A's Colony, Road No.12,
Banjara Hills, Hyderabad – 500 034,
rep. by its Managing Director,
Ms. K. Anupama, D/o. K. Sudarshan Reddy.

.... Petitioner

And

1. The Commercial Tax Officer, Jubilee Hills Circle, Hyderabad, 5-9-279, 7th Floor, Mayur Kushal Complex, B-Block, Abids, Hyderabad – 500 001.
2. The Commercial Tax Officer, Sanathnagar Circle, Hyderabad, 5-9-279, 6th Floor, Mayur Kushal Complex, B-Block, Abids, Hyderabad – 500 001.
3. The Appellate Deputy Commissioner (CT), Punjagutta Division, Hyderabad, 5th Floor, Commercial Taxes Complex, M.J. Road, Opposite Gandhi Bhavan, Nampally, Hyderabad – 500 001.
4. The Commissioner of Commercial Taxes, State of Telangana, Commercial Taxes Complex, M.J. Road, Opposite Gandhi Bhavan, Nampally, Hyderabad- 500 001.
5. The State of Telangana, Rep. by its Principal Secretary (Revenue) (CT), Telangana Secretariat, Hyderabad – 500 022.

... Respondents

! Counsel for the Petitioner : Mr. A.V. Siva Kartikeya

^ Counsel for Respondents : Mr. M. Govind Reddy

< GI ST:

> HEAD NOTE:

? Cases referred

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

WRIT PETITION No.14221 of 2018

ORDER: (Per VRS,J.)

Challenging an order of penalty as confirmed by the First Appellate Authority and in the alternative seeking to set aside the order of the VAT Tribunal, the dealer has come up with the above writ petition.

2. Heard Mr. Siva Kartikeya, learned counsel for the petitioner. Mr. M. Govind Reddy, learned Special Standing Counsel takes notice for the respondents.

3. The order of penalty dated 30.09.2013 was passed by the 2nd respondent. The petitioner filed a First Appeal and the 3rd respondent dismissed the appeal on 15.09.2015.

4. As against the order of the First Appellate Authority, the petitioner filed a Second Appeal before the VAT Tribunal. Though the appeal was filed within time, the pre-deposit condition was not fulfilled. Therefore, the Tribunal returned the appeal papers on 08.01.2016, directing the petitioner to comply with the pre-deposit condition as well as to rectify certain defects. According to the petitioner, though the order of return was passed on 08.01.2016, the papers were returned on 24.02.2016. But before the expiry of the period of 30 days granted by the Tribunal, the Managing Director of the petitioner-company passed away. Therefore, the Company landed up in a crisis.

5. The persons, who are now in management of the Company, including the daughter of the Managing director woke up to the reality only when a demand notice was issued on 16.02.2018 by the 1st respondent. Therefore, they have come up with the above writ petition.

6. It is seen from the facts narrated above that the petitioner exhausted the remedy of First Appeal properly. The petitioner also filed a Second Appeal before the Tribunal. The Tribunal ordered the return of papers on 08.01.2016. But on 29.02.2016 the Managing Director died.

7. Thereafter, the Tribunal dismissed the appeal only on 09.02.2018. Therefore, this is a case where the Court has to take sympathetic view.

8. In view of the above, the writ petition is disposed of directing the petitioner to make payment of the pre-deposit condition within a period of two weeks from the date of receipt of a copy of this order and represent the appeal papers, before the Telangana VAT Tribunal. Before such representation, the petitioner shall also comply with all other defects pointed out in the order dated 08.01.2016. Thereafter, the Tribunal may number the appeal, entertain the same and dispose it of in accordance with law. Till then the impugned demand shall stand stayed. There shall be no order as to costs.

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

V. RAMASUBRAMANIAN, J.

J. UMA DEVI, J.

24th April, 2018
Js.

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

WRIT PETITION No.14221 of 2018



24th April, 2018

Js.