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

* HONOURABLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
* HONOURABLE SRI JUSTICE P. KESHAVA RAO

<u>+W.P.No.33985 of 2018</u>

<u>% Date: 19-12-2018</u>

<u>#Between:</u>

M/s. Sri Monashi Life Sciences Private Limited,
Flat No.215, Bhanu Enclave, Erragadda,
Hyderabad Telangana 500038
Rep. by its Director Mr. Golla Sivarama Prasad.

….. Petitioner

And

1. The Assistant Commissioner (ST), Sanathanagar Circle, Punjagutta Division, Hyderabad.
2. The Chief Commissioner of State Tax, Government of Telangana, Hyderabad.
3. State of Telangana, rep. by its Principal Secretary (Revenue) (CT) Department, Telangana Secretariat Buildings, Hyderabad.

…. Respondents

! Counsel for the Petitioner : Mr. Bhaskar Reddy Vemireddy

^ Counsel for Respondents 1 & 2 : Mr. T. Vinod Kumar, Spl. S.C.

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> HEAD NOTE:

? Cases referred

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN
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HONOURABLE SRI JUSTICE P. KESHAVA RAO

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ORDER: (Per VRS,J)

Challenging an order of assessment under the Telangana VAT Act, 2005, for the period from 2013-14 to 2016-17, the dealer has come up with the above writ petition.

2. Heard Mr. Bhaskar Reddy Vemireddy, learned counsel for the petitioner and Mr. T. Vinod Kumar, learned Special Standing Counsel for the respondents.

3. The only grievance of the petitioner is that the goods in question are taxable only at the rate of 5% under Sub-Entry 117 of Entry-100 of Schedule-IV of the Act and that the 1st respondent was in error in levying tax at 14.5% on the turnover of the recovered mixed solvents, classifying them as goods falling under Schedule-V. Heavy reliance is placed by the petitioner upon an advanced ruling dated 13.03.2017 in respect of Care Chemicals, Hyderabad. But according to the learned Special Standing Counsel, the "HSN" codes were different and that even the assessment orders of the petitioners' suppliers are under scrutiny. Therefore, the learned Special Standing Counsel contended that an enquiry needs to be conducted into the nature of the goods.

4. According to the learned counsel for the petitioner, he has sent the goods for testing under the Drugs and Cosmetics Act, 1940 and that a report has also been received. According to the petitioner, he had no occasion to raise all these points since personal hearing was not granted.

5. In view of the nature of the disputes now raised and the documents that have come into the possession of the petitioner, and in

view of the fact that the assessment orders of the petitioners' suppliers are also under scrutiny, it would be better that the matter be sent back to the Assessing Officer for fresh adjudication.

6. Therefore, the writ petition is allowed, the impugned order is set aside and the matter is remanded back to the 1st respondent. The 1st respondent shall fix a date for personal hearing, on which date the petitioner shall file all necessary documents in their possession, along with additional objections, if any. The 1st respondent shall consider the same and thereafter pass orders afresh. There will be no order as to costs.

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

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V. RAMASUBRAMANIAN, J.

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P. KESHAVA RAO, J.

19th December, 2018
Js.

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HONOURABLE SRI JUSTICE P. KESHAVA RAO

W.P.No.33985 of 2018

19th December, 2018

Js.