HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF JULY
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY
AND
THE HON'BLE SRI JUSTICE K. LAKSHMAN

WRIT PETITION NO: 10436 OF 2020

Between:

M/s. Bansal Flexipack Pvt Ltd, Represented by Director ArpitAgarwal 4-3-161, Hill Street, Ranigunj Hyderabad 500003 Telangana State.

...PETITIONER

AND

1. The State of Telangana, Rep. by Its Principal Secretary, Revenue and Commercial Tax Department, Secretariat, Hyderabad.
2. The Commissioner of Commercial Taxes, Commercial Tax Bhavan, Opp Gandhi Bhavan Nampally, Hyderabad-500001.
3. The Commercial Tax Officer Mahankali Street, R.P Road Circle Secunderabad Division Secunderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings of the 3rd Respondent Assessment Order No 34489 dated 23.03.2020 passed against the petitioner is void, illegal, arbitrary, against the principles of natural justice and contrary to the provisions of CST Act,1956 and violation of article 14 and 301 of Constitution of India, set aside the same.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the proceedings of the 3rd Respondent Assessment Order No 34489 dated 23.03.2020 passed against the petitioner, pending disposal of the above writ petition.

Counsel for the Petitioner: SRI. S. APPADHARA REDDY

Counsel for the Respondents: SRI. J. ANIL KUMAR,
SPECIAL S.C. FOR COMMERCIAL TAXES

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY
AND
THE HON'BLE SRI JUSTICE A.LAKSHMAN

W.P.NO.10436 OF 2020

O R D E R (Per the Hon'ble Sri Justice A.Rajasheker Reddy)

The petitioner – company is registered as dealer under the provisions of Telangana VAT Act, 2005 and Central Sales Tax Act, 1956 bearing TIN No.36918762345, and it is stated to be engaged in the sale of packaging material. The case of the petitioner is that though it paid the VAT and CST correctly and furnished returns, and is not liable to pay any tax for the year 2015-2016, the 3rd respondent – Commercial Tax Officer, without considering the same and without providing opportunity of personal hearing, and in violation of the principles of natural justice, passed the impugned Assessment Order No.34489 dated 23.03.2020, making the petitioner liable to pay the tax. Aggrieved by the same, the present writ petition is filed.

Learned counsel appearing for the petitioner, submits that the 3rd respondent issued final notice to the petitioner fixing the date for personal hearing on 30.03.2020, but surprisingly passed the impugned assessment order on 23.03.2020 itself, and this is illegal and arbitrary.

Heard Sri J.Anil Kumar, learned Standing Counsel for Commercial Taxes appearing for respondents.

Along with the material papers, petitioner filed final show cause notice, wherein the 3rd respondent fixed the date of personal hearing on 30.03.2020. The relevant portion of the show cause notice is as under:

> "You have filed objections to the show cause notice but have not availed the opportunity of personal hearing. Therefore, you are given a final

opportunity to avail personal hearing by dt: 30-03-2020, failing which no further opportunity will be given before passing the assessment order."

But the impugned order was passed on 23.03.2020 itself, with undue haste and without giving opportunity of personal hearing to the petitioner. This is in gross violation of principles of natural justice.

Only on the ground of violation of principles of natural justice, the impugned assessment order is set aside, and the matter is remitted back to the 3rd respondent to pass orders afresh, after giving opportunity of personal hearing to the petitioner.

The writ petition is accordingly allowed to the extent indicated above.

Interlocutory applications pending, if any, shall stand closed. No order as to costs.

SD/-I.NAGALAKSHMI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Revenue and Commercial Tax Department, State of Telangana, Secretariat, Hyderabad.
2. The Commissioner of Commercial Taxes,, Commercial Tax Bhavan, Opp Gandhi Bhavan Nampally, Hyderabad-500001.
3. The Commercial Tax Officer Mahankali Street, R.P Road Circle Secunderabad Division Secunderabad.
4. One CC to Sri S, Appadhara Reddy Advocate [OPUC]
5. One CC to Sri. J. Anil Kumar, Special S.C. for Commercial Tax (TG) [OPUC]
6. Two CCs to the GP for Commercial Taxes, High Court for the State of Telangana at Hyderabad. (OUT)
7. Two CD Copies

CHR

HIGH COURT

DATED:17/07/2020

ORDER

W.P.No.10436 of 2020



ALLOWING THE WRIT PETITION
WITHOUT COSTS

D-28/7/2020.