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

WEDNESDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE M. S. RAMACHANDRA RAO
AND
THE HON'BLE SRI JUSTICE T. AMARNATH GOUD

WRIT PETITION NO: 21798 OF 2020

Between:

M/s.Mana Ayurvedam Private Limited, Flat No.194, Medical Health Colony, Vanasthalipuram, Hyderabad - 500 070. Ranga Reddy District. State of Telangana. Rep. by its Managing Director, Mr.Yeshamalla Vishnu Murthy

...PETITIONER

AND

1. The Deputy Commercial Tax Officer, Vanasthalipuram-I Circle, Saroornagar Division, Hyderabad.
2. The Assistant Commissioner (ST), (Formerly Commercial Tax Officer) Vanasthalipuram-1 Circle, Saroornagar Division, Hyderabad.
3. The Branch Manager, HDFC Bank Limited, Vanasthalipuram Branch, Hyderabad.
4. The State of Telangana, Rep. by its Principal Secretary, Revenue (CT) Department, Telangana Secretariat, Hyderabad

...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 Writ of Mandamus or any other appropriate Writ or Order or direction declaring the action of the 1st Respondent in passing the Exparte Assessment Proceedings, dated 29.03.2020 for the tax period 2015-16 under the Central Sales Tax Act 1956, without serving Notices and without granting sufficient opportunity of being heard to the Petitioner, as arbitrary, contrary to law, barred by limitation for the tax period April, 2015 to February,2016, the same is in violation of principles of .natural justice, without jurisdiction and consequently set aside the Exparte Assessment Proceedings of the 1st respondent, dated 29.03.2020

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 grant stay of all further proceedings, in pursuance of the Final Assessment Proceedings of the 1st respondent dated 29.03.2020, including Garnishee Notice, dated 03.11.2020 issued by the 2nd respondent to the 3rd respondent Bank of the Petitioner, for the tax period 2015- 16, under Central Sales Tax Act 1956, pending disposal of the above Writ Petition, as otherwise, the Petitioner will be put to severe loss and hardship

Counsel for the Petitioner: SRI I. SUDHAKARA REDDY

Counsel for Respondents: SRI J. ANIL KUMAR,
SPL. GP FOR COMMERCIAL TAXES

The Court made the following: ORDER

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

AND

HONOURABLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.21798 OF 2020

ORDER:

(Per Sri Justice M.S.Ramachandra Rao)

In this Writ Petition, the petitioner assails the Assessment Order No.44439 dt.29.03.2020 passed by the 1st respondent under the CST Act, 1956 for the period April, 2015 to March, 2016.

2. According to the petitioner, no pre-assessment show-cause notice was served on the petitioner though the impugned order says that such a show-cause notice was served on the petitioner; no reminder notice dt.16.11.2019 and final notice dt.06.03.2020 as mentioned in the impugned order were also served on the petitioner; no personal hearing was afforded to the petitioner; and there has been violation of principles of natural justice causing prejudice to the petitioner.

3. The petitioner also contends that the impugned proceedings of the 1st respondent are barred by limitation for the period April, 2015 to February, 2016 under Sub-Rule (5A) of Rule 14A of the CST (Telangana) Rules.

4. According to the petitioner, the impugned order has been served on the petitioner on 20.11.2020 with a delay of 236 days, and prior thereto on 03.11.2020 a garnishee notice dt.03.11.2020 was served by the 2nd respondent on the banker of the petitioner, i.e., the 3rd respondent

under Section 29 of the TVAT Act without even serving a copy of such notice on the petitioner.

5. Sri J.Anil Kumar, learned Special Counsel for Commercial Taxes appearing for the respondents does not dispute the fact that pre-assessment show-cause notice was not given to the petitioner by the 1st respondent before passing the impugned Assessment Order on 29.03.2020 or the fact that the petitioner was not provided any personal hearing.

6. In our opinion, violation of principles of natural justice has caused serious prejudice to the petitioner and this has vitiated the impugned Assessment order.

7. Accordingly, the Writ Petition is allowed; the impugned Assessment Order No. No.44439 dt.29.03.2020 passed by the 1st respondent is set aside; the matter is remitted back to the 1st respondent for fresh consideration; the garnishee notice dt.03.11.2020 issued by the 2nd respondent is also set aside; the 1st respondent is directed to serve a show-cause notice on the petitioner in accordance with rule 64 of the TVAT Rules indicating the turnover proposed to be taxed and also the tax proposed to be levied on the petitioner; the petitioner is granted six (6) weeks time from the date of receipt of the said show-cause notice to file objections along with supporting material; a personal hearing shall be afforded to the petitioner by the 1st respondent; and thereafter the 1st

respondent shall pass a reasoned order in accordance with law and communicate it to the petitioner. No costs.

8. Pending miscellaneous petitions, if any, in this Writ Petition shall stand closed.

SD/-CH.VENKATESWARULU
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Deputy Commercial Tax Officer, Vanasthalipuram-I Circle, Saroornagar Division, Hyderabad.
2. The Assistant Commissioner (ST), (Formerly Commercial Tax Officer) Vanasthalipuram-1 Circle, Saroomagar Division, Hyderabad.
3. The Branch Manager, HDFC Bank Limited, Vanasthalipuram Branch, Hyderabad.
4. The Principal Secretary, Revenue (CT) Department, State of Telangana Telangana Secretariat, Hyderabad
5. One CC to Sri I Sudhakara Reddy Advocate [OPUC]
6. One CC to Sri J. Anil Kumar, Spl. Standing Counsel for Commercial Taxes (OPUC)
7. Two CD Copies

MBC

HIGH COURT

DATED: 16/12/2020



ORDER

WP.No.21798 of 2020

ALLOWING THE WRIT PETITION

WITHOUT COSTS

SSV
8 copies
Dr 23/12/2020