HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY ,THE TWENTY SECOND DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO
AND
THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO: 21998 and 21976 OF 2020

WP. No.21998 of 2020

Between:

M/s. Sri Ridhic Bakerss, Sy. No. 545, Babaguda Village, Shamirpet Mandal, Medchal-Malkajgiri Dist. Represented by its Proprietor, Sri. PSNV Prasad, S/o. Sri. P. Satyanarayana

...PETITIONER

AND

1. The State of Telangana, Represented by its Principal Secretary, (Revenue), Secretariat, Hyderabad
2. The Assistant Commissioner (CT)-III, Saroornagar Division, M J Road, Hyderabad.
3. The Bank Manager, Bank of Baroda, Tilak Nagar Branch, 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 an appropriate Writ or direction, more particularly one in the nature of Writ of Mandamus, declaring the impugned order dated 29/02/2020 passed by the 2nd respondent for the assessment year 2017-18 (Apr to Jun' 2017) CST in AO No.18311 as illegal, unjustified and contrary to the provisions of law besides being violative of principles of natural justice.

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 stay the operation of the notice dated. 20/11/2020 in Form VAT 206 issued by the 2nd respondent to the 3rd respondent bank attaching the bank account of the petitioner during the pendency of the above writ petition.

WRIT PETITION NO: 21976 OF 2020

Between:

M/s. Sri Ridhic Bakerss, Sy. No. 545, Babaguda Village, Shamirpet Mandal, Medchal-Malkajgiri Dist. Represented by its Proprietor, Sri. PSNV Prasad, S/o. Sri. P. Satyanarayana

...PETITIONER

AND

1. The State of Telangana, Represented by its Principal Secretary, (Revenue), Secretariat, Hyderabad
2. The Assistant Commissioner (CT)-III, Saroornagar Division, M J Road, Hyderabad
3. The Bank Manager, Bank of Baroda, Tilak Nagar Branch, 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 an appropriate Writ or direction, more particularly one in the nature of Writ of Mandamus, declaring the impugned order dated 29/02/2020 passed by the 2nd respondent for the assessment year 2016-17 CST in AO No.18294 as illegal, unjustified and contrary to the provisions of law besides being violative of principles of natural justice.

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 stay the operation of the notice dated. 20/11/2020 in Form VAT 206 issued by the 2nd respondent to the 3rd respondent bank attaching the bank account of the petitioner during the pendency of the above writ petition.

Counsel for the Petitioner (in both WPs'): SRI B. SRINIVAS
Counsel for the Respondent (in both WPs'): SRI M.GOVIND REDDY, SPECIAL SC FOR COMMERCIAL TAXES
The Court made the following: COMMON ORDER

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

AND

THE HONOURABLE SRI JUSTICE T. AMARNATH GOUD

Writ Petition Nos.21998 and 21976 of 2020

COMMON ORDER : *(per Hon'ble Sri Justice M.S. Ramachandra Rao)*

In these Writ Petitions, the petitioner challenges (i) A.O.No.18294 dt.29.02.2020 passed by 1st respondent for the period April, 2016 to June, 2017 under the Central Sales Tax Act, 1956; and (ii) A.O.No.18311 dt.29.02.2020 passed by 1st respondent for the period April, 2017 to June, 2017 under the Central Sales Tax Act, 1956.

2. As regards the period from April, 2016 to March, 2017, it is the contention of petitioner that after receiving show-cause notice dt.07.06.2019 from 2nd respondent, the petitioner filed replies dt.17.06.2019, dt.21.06.2019 and also dt.03.02.2020 enclosing copies of C-Forms and E1-Forms; that petitioner had also requested for personal hearing but without providing any personal hearing to petitioner and without considering any of the replies submitted by petitioner, the impugned assessment order was passed ignoring supporting material.

3. As regards the Assessment Order dt.29.02.2020 for the period April, 2017 to June, 2017 also, the petitioner contends that it had given responses on 17.06.2019 and 21.06.2019 apart from 03.02.2020

enclosing C-Forms and E1-Forms and that these were also not considered by 2nd respondent; the impugned Assessment Order was passed; and that personal hearing was also not provided to petitioner by 2nd respondent for both the above tax periods.

4. Sri M. Govind Reddy, learned Special Counsel for Commercial Taxes, appearing for respondents, is unable to explain why the 2nd respondent had not adverted to the contents of the responses given by petitioner to the show-cause notices issued to it in the impugned Assessment Orders.

5. The whole purpose of issuing the show-cause notice is to invite a response from the petitioner / assessee; and when such responses have been submitted along with supporting material, it is the duty of 2nd respondent to consider the same. The 2nd respondent cannot ignore the same and pass the impugned Assessment Orders.

6. Accordingly, the Writ Petitions are allowed; the impugned A.O.No.18294 dt.29.02.2020 passed by 1st respondent for the period April, 2016 to June, 2017 under the Central Sales Tax Act, 1956 and A.O.No.18311 dt.29.02.2020 passed by 1st respondent for the period April, 2017 to June, 2017, are both set aside; the matters are remitted to 2nd respondent for fresh consideration; the 2nd respondent is directed to provide a personal hearing to petitioner and consider the responses submitted by petitioner referred to above along with supporting

material; and the 2nd respondent shall then pass reasoned orders and communicate the same to petitioner.

7. Accordingly, the Writ Petitions are allowed as above. No order as to costs.

8. As a sequel, miscellaneous petitions pending if any in these Writ Petitions, shall stand closed.

SD/-K.VENKAIAH
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, (Revenue), State of Telangana, Secretariat, Hyderabad
2. The Assistant Commissioner (CT)-III, Saroornagar Division, M J Road, Hyderabad
3. The Bank Manager, Bank of Baroda, Tilak Nagar Branch, Hyderabad.
4. One CC to Sri B. Srinivas, Advocate [OPUC]
5. One CC to Sri M. Govind Reddy, Special SC for Commercial Taxes, Advocate [OPUC]
6. Two CD Copies

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HIGH COURT

DATED:22/12/2020



COMMON ORDER

WP.Nos. 21998 and 21976 of 2020

ALLOWING THE WPs'

WITHOUT COSTS

SSV
7 Copies
DF 2/01/2021