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

THURSDAY, THE SEVENTEENTH 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. 22433 OF 2020

Between:

M/s. Sri Vaishnavi Spice, 1/120, Sy. No. 668/1a, Manikbhandar, Nizamabad - 503 001, Telangana. Represented by its Proprietor, Mr. Ramesh Pandey, S/o. Mr. Shyam Sundar Pandey.

...PETITIONER

AND

1. The Commercial Tax Officer, Bhodan Circle, Nizamabad Division, TNGO's Building, Rakasipet, Bodhan, Nizamabad - 503 185, Telangana.
2. The Commissioner of Commercial Taxes, State of Telangana, Commercial Taxes Complex, M.J. Road, Opposite Gandhi Bhavan, Nampally, Hyderabad - 500 001.
3. The State of Telangana, Represented by its Principal Secretary (Revenue) (CT), Telangana Secretariat, Hyderabad - 500 022.

...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 one in the nature of Mandamus declaring the Assessment Order in A.A.O. No.: 38100, dated 27.03.2020, passed by the 1st Respondent, for the period 2015 - 16, under the provisions of the Central Sales Tax Act, 1956, as void, arbitrary, highhanded, mechanical, without jurisdiction and bereft of any valid reasons, apart from being illegal, violative of principles of natural justice and Articles 14 & 265 of the Constitution of India; and consequently 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 stay all further proceedings, including any recovery, pursuant to the Assessment Order in A.A.O. No.: 38100, dated 27.03.2020, passed by the 1st Respondent, for the period 2015 - 16, under the provisions of the Central Sales Tax Act, 1956, pending disposal of the above Writ Petition.

Counsel for the Petitioner: SRI J. V. RAO

Counsel for the Respondents: SRI M. GOVIND REDDY,
SPECIAL COUNSEL 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.22433 of 2020

ORDER: (Per Hon'ble Sri Justice M.S. Ramachandra Rao)

In this Writ Petition, petitioner assails the Assessment Order AO No.38100 dt.27-03-2020 passed by 1st respondent for the tax period 2015-16 under the Central Sales Tax Act, 1956 (for short 'the Act').

2. Petitioner contends that though impugned assessment order refers to issuance of notices dt.16-11-2019 and 06-03-2020, petitioner did not receive any of these notices and no personal hearing was also afforded to the petitioner.

3. Sri M.Govind Reddy, learned Special Counsel for Commercial Taxes appearing for respondents does not dispute the fact that prior show cause notice or other notices were not served on petitioner and that no personal hearing was afforded to the petitioner.

4. We are of the opinion that non-service of pre-assessment show cause notice and other notices and denial of personal hearing to the petitioner has caused serious prejudice to the petitioner.

5. In this view of the matter, the Writ Petition is allowed; the impugned Assessment Order No.38100 dt.27-03-2020 passed by 1st respondent is set aside; the matter is remitted back to the 1st respondent for fresh consideration; the 1st respondent is directed to serve show cause notice on petitioner indicating the proposed turnover

to be taxed and also the tax proposed in accordance with Rule 64(1)(b) of the Telangana VAT Rules, 2005; petitioner is granted six (06) weeks from the date of receipt of the show cause notice to file objections along with supporting material; a personal hearing shall be provided to the petitioner by 1st respondent; and then a reasoned order shall be passed by 1st respondent in accordance with law and communicated to the petitioner. No costs.

6. Consequently, miscellaneous petitions, pending if any, shall stand closed.

SD/- V.SUDHA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Commercial Tax Officer, Bhodan Circle, Nizamabad Division, TNGO's Building, Rakasipet, Bodhan, Nizamabad - 503 185, Telangana.
2. The Commissioner of Commercial Taxes, State of Telangana, Commercial Taxes Complex, M.J. Road, Opposite Gandhi Bhavan, Nampally, Hyderabad - 500 001.
3. The Principal Secretary (Revenue) (CT), State of Telangana, Telangana Secretariat, Hyderabad - 500 022.
4. One CC to Sri J. V. Rao, Advocate [OPUC]
5. Two CCs to Sri M. Govind Reddy, Special Counsel for Commercial Taxes, High Court for the State of Telangana at Hyderabad. [OUT]
6. Two CD Copies.

MP

HIGH COURT

DATED:17/12/2020



ORDER

WP.No.22433 of 2020

ALLOWING THE WRIT PETITION
WITHOUT COSTS

(8) VLV
26/12/20