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

WRIT PETITION NO: 22490 OF 2020

Between:

M/s Padmavathi Cotton Traders, 18, Hastinapuram, Hyderabad Rep. by its proprietor Mr. Ganta Rajshekhar Reddy S/o Mr. Ganta Satyanarayan Reddy, resident of Hyderabad (State of Telangana)

...PETITIONER

AND

1. Commercial Tax Officer, Vanasthali Puram -2 Circle, Saroor Nagar Division, 5th Floor, Kakatiya Hotel, Nampally, Hyderabad.
2. Deputy Commissioner (CT), Saroor Nagar Division, 1st Floor, Near Exhibition Grounds, Nampally, Hyderabad.
3. Commissioner of Commercial Taxes, Govt. of Telangana, 1st Floor, Commissioner of Commercial Taxes Building, Nampally, Hyderabad.
4. The Principal Secretary to Revenue Department, Government of Telengana, 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 a Writ of Mandamus or any other appropriate writ, order or direction declaring the online final ex-parte assessment order dt.31/03/2020 passed by the 1st Respondent for the assessment year 2015-16 under the CST Act, 1956 by which date pandemic covid-19 was declared lockdown on 21/03/2020 in demanding Central Sales Tax at Rs.3,83,51,273/-, without serving final show cause notice dt.23/03/2020 or without serving an opportunity of personal hearing to 30/03/2020 and with out dealing with the documents already submitted on 11/10/2019 in levying higher rate of central sales tax @14.5%, as amended to section 8(2) of the CST Act, 1956 is quite arbitrary, illegal, contrary to law and consequently set aside the ex-parte assessment order dt.31/03/2020 without following mandatory procedure in serving the notices as prescribed under the Act, as violative of principles of nature justice, equity and fair play in not serving show cause notice dt.23/03/2020 nor personal hearing notice posted to 30/03/2020 before passing the final assessment order

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 collection of disputed central sales tax of Rs.3,83,51,273/- pursuant to the ex-parte assessment order dt.31/03/2020 passed by the 1st respondent for the assessment year 2015-16 under the CST Act, pending disposal of the above writ petition

Counsel for the Petitioner: SRI TEJPRAKASH TOSHNIWAL

Counsel for Respondents: SRI M. GOVIND REDDY,
SPL. SC 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.22490 OF 2020

O R D E R:

(Per Sri Justice M.S.Ramachandra Rao)

In this Writ Petition, the petitioner assails the Assessment Order No.52023 dt.31.03.2020 passed by the 1st respondent under the CST Act, 1956 for the assessment period April, 2015 to March, 2016.

2. It is the contention of the petitioner that the 1st respondent had issued a show-cause notice on 04.06.2019 and thereafter the petitioner had also submitted on 11.10.2019 H Forms and C Declaration Forms; suddenly the 1st respondent informed over phone that the petitioner has to pay Rs.3,83,51,273/- for the assessment year 2015-16 under the CST Act, 1956; the petitioner then went to the office of the 1st respondent and came to know about the passing of the impugned Assessment Order.

3. The petitioner contends that though the said impugned order refers to final show-cause notice dt.23.03.2020, no such show-cause notice has been served on the petitioner.

4. It also contended that no personal hearing had been provided to the petitioner though the same had been sought by the petitioner specifically in the response filed on 11.10.2019 by it and none of the documents submitted by the petitioner on 11.10.2019 had been considered by the 1st respondent in the impugned Assessment Order.

5. The petitioner also contends that when the whole country was in lockdown on account of Covid-19 pandemic and no Government offices except those dealing with emergency services were working, the 1st respondent could not have passed the impugned Assessment Order on 31.03.2020.

6. Sri M.Govind Reddy, learned Special Counsel for Commercial Taxes appearing for the respondents does not dispute that the impugned order makes no reference to the response dt.11.10.2019 submitted by the petitioner or to the H Forms and C Declaration Forms which the petitioner had submitted to the 1st respondent.

7. He also does not dispute that personal hearing was not provided to the petitioner and final show-cause notice dt.23.03.2020 is not served on the petitioner though the impugned Assessment Order speaks as if it has been served on the petitioner.

8. In our considered opinion, there has been violation of principles of natural justice and the petitioner has suffered great prejudice thereby.

9. Accordingly, the Writ Petition is allowed; the impugned Assessment Order No.52023 dt.31.03.2020 passed by the 1st respondent is set aside; the matter is remitted back to the 1st respondent for fresh consideration; the 1st respondent is directed to provide a personal hearing to the petitioner; the petitioner is permitted to file any additional objections if it so chooses along with supporting material before the 1st respondent; the 1st respondent shall then pass a reasoned order in accordance with law and communicate it to the petitioner. No costs.

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

SD/-K.VENKAIAH
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Commercial Tax Officer Others, Vanasthali Puram -2 Circle, Saroor Nagar Division, 5th Floor, Kakatiya Hotel, Nampally, Hyderabad.
2. The Deputy Commissioner (CT), Saroor Nagar Division, 1st Floor, Near Exhibition Grounds, Nampally, Hyderabad.
3. The Commissioner of Commercial Taxes, Govt. of Telangana, 1st Floor, Commissioner of Commercial Taxes Building, Nampally, Hyderabad.
4. The Principal Secretary to Revenue Department, Government of Telengana, Secretariat, Hyderabad.
5. One CC to Sri Tejprakash Toshniwal Advocate [OPUC]
6. One CC to Sri M. Govind Reddy, Spl. SC for Commercial Taxes (OPUC)
7. Two CD Copies

MBC

HIGH COURT

DATED: 22/12/2020



ORDER

WP.No.22490 of 2020

ALLOWING THE WRIT PETITION

WITHOUT COSTS

(8) VLV 28/12/20