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

WEDNESDAY, THE THIRTIETH 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: 22837 OF 2020

Between:

Nakasa Crop Science Private Limited, (represented by its Director), Plot No.20, IDA, Prasanthi Nagar, Kukatpally, Hyderabad- 500072.

...PETITIONER

AND

1. Commercial Tax Officer, Hydernagar-3 Circle, 5th Floor, South Wing, Gaganvihar, Nampally, Hyderabad- 500 001.
2. Commissioner of State Tax, Commercial Tax Department, State of Telangana, Hyderabad.
3. State of Telangana, (Represented by its Principal Secretary (Revenue), Nampally, 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, order or direction in nature of writ of mandamus and declare the impugned order dt.30.03.2020 passed by the 1st respondent as being illegal, violative of principles of natural justice, and without jurisdiction and being violative of Articles 14 and 19(1)(g) and 265 of Constitution of India.

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 on the operation of the impugned order and recovery of tax confirmed vide the impugned Assessment Order dt.30.3.2020 and consequential demand order dt. Nil issued by the 1st Respondent.

Counsel for the Petitioner: SRI. Y. SREENIVASA REDDY

Counsel for the Respondents: SRI M. GOVIND REDDY,
SPECIAL COUNSEL FOR COMMERCIAL TAX

The Court made the following: ORDER

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

AND

HONOURABLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.22837 OF 2020

ORDER:

(Per Sri Justice M.S.Ramachandra Rao)

In this Writ Petition, the petitioner assails the Assessment Order A.O.No.49801 dt.30.03.2020 passed by the 1st respondent for the period April, 2015 to March, 2016 under the provisions of the CST Act, 1956 and the consequential demand order issued to the petitioner by the 1st respondent.

2. According to the petitioner, a show-cause notice dt.04.06.2019 was issued to the petitioner by the 1st respondent for the above period; and the petitioner filed a reply thereon on 04.03.2020 electronically giving details of C Forms pertaining to the inter-State sales effected for the period 2015-16.

3. It is contended that subsequently, the 1st respondent sent a final notice dt.06.03.2020 requiring the petitioner to appear for personal hearing on 16.03.2020; that the petitioner appeared before the 1st respondent on 16.03.2020 along with C Forms available with it and invoices and informed the 1st respondent that it is still in the process of obtaining remaining C Forms which had been lost in a fire accident which had occurred in its premises on 13.11.2016, and sought for time. According to the petitioner, the 1st respondent orally informed the petitioner to submit all documents at one time. The petitioner therefore filed a written request on 16.03.2020 seeking 10 more days' time for collecting and submitting the information.

4. The petitioner contends that in the mean time, on account of outbreak of Covid-19 pandemic and imposition of lockdown by the State and Central Governments on 22.03.2020, the petitioner closed its office and could not submit relevant documents to the 1st respondent.

5. It is contended that the 1st respondent proceeded to pass the impugned order during the lockdown period on 30.03.2020 confirming the demand of CST calculated at the rate of 14.5% instead of 5% on the fertilizers and nil rate of organic manure.

6. The petitioner contends that having granted time to the petitioner to file documents, the 1st respondent ought not to have ignored the same and proceeded to pass the impugned order that, too during the lockdown imposed by the State and Central Governments, which started on 22.03.2020.

7. Learned counsel for the petitioner further contends that even the reply dt.04.03.2020 enclosing the C Forms filed by the petitioner was not taken into consideration by the 1st respondent and no personal hearing was also afforded to the petitioner.

8. It is further contended that though the impugned order refers to reminder notice dt.16.11.2019 and final notice dt.06.03.2020, the reminder notice dt.16.11.2019 was not received by the petitioner.

9. According to the petitioner, it obtained all the remaining C Forms and relevant documents such as invoices and waybills from the respective State Tax Authorities and other States and approached the 1st respondent for submission of the original C Forms in proof of the claim of exemptions for branch transfers and exempted sales, but the 1st respondent refused to receive the same.

10. Sri M.Govind Reddy, learned Special Counsel for Commercial Taxes appearing for the respondents does not dispute that the impugned order was passed during the lockdown imposed by the Union and State Governments on account of Covid-19 pandemic. He also does not dispute that the petitioner was not served reminder notice dt.16.11.2019 and no personal hearing was afforded to the petitioner or that the C Forms filed by the petitioner on 04.03.2020 were not considered by the 1st respondent.

11. In view of the above circumstances, we are satisfied that there is violation of principles of natural justice and the petitioner has suffered serious prejudice.

12. Accordingly, the Writ Petition is allowed; the impugned Assessment Order A.O.No.49801 dt.30.03.2020 passed by the 1st respondent against the petitioner for the period April, 2015 to March, 2016 under the CST Act, 1956, and the consequential demand order issued to the petitioner by the 1st respondent are set aside; the matter is remitted back to the 1st respondent for fresh consideration; the petitioner is granted six (6) weeks time from the date of receipt of a copy of this order to file an additional reply/objections with supporting material such as C Forms, invoices, waybills, etc., in support of its claim for exemption of branch transfers and exempted sales, etc.; a personal hearing shall be afforded to the petitioner by the 1st respondent; and then a reasoned order shall be passed by the 1st respondent in accordance with law and communicated to the petitioner. No costs.

13. 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, Hydernagar-3 Circle, 5th Floor, South Wing, Gaganvihar, Nampally, Hyderabad- 500 001
2. The Commissioner of State Tax, Commercial Tax Department, State of Telangana, Hyderabad
3. The Principal Secretary (Revenue), State of Telangana, Nampally, Hyderabad
4. One CC to Sri Y. Sreenivasa Reddy, Advocate [OPUC]
5. One CC to Sri M. Govind Reddy, Special Counsel for Commercial Taxes [OPUC]
6. Two CCs to GP for Commercial Tax, High Court for the State of Telangana at Hyderabad. [OUT]
7. Two CD Copies

CHR

HIGH COURT

DATED:30/12/2020

ORDER

W.P.No.22837 of 2020

ALLOWING THE WRIT PETITION
WITHOUT COSTS

SSV
9 copies
Dt 06/01/2021