

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

WEDNESDAY, THE THIRTIETH 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: 22898 OF 2020

Between:

M/s. Dinesh Kumar Daliya and Company, rep. by Its Proprietor. Mr. Dinesh Kumar Daliya, 7-3-218, Goushala Road, Nizamabad-503 001

...PETITIONER(S)

AND

1. Commercial Tax Officer, Bodhan Circle, Nizamabad Division, Nizamabad.
2. State of Telangana, rep. by its Principal Secretary to Government, Revenue (CT-II) Department, 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 Certiorari or any other appropriate writ or order or direction quashing the impugned order of the 1st Respondent passed in AO No.38227, dated 16/3/2020, communicated to the Petitioner on 7/12/2020 for the assessment year 2015-16 under the Central Sales Tax Act, 1956 as illegal, arbitrary, unjustified and in violation 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 grant stay of recovery of the disputed tax of Rs.12,63,177/-, pursuant to the impugned order of the Respondent dated 16.3.2020 for the assessment year 2015-16 under the CST Act, 1956, pending disposal of the Writ Petition, as otherwise the Petitioner will be put to severe loss and hardship

Counsel for the Petitioner: SRI. S DWARAKANATH

**Counsel for the Respondents: SRI. P. GOVIND REDDY, SPECIAL COUNSEL
FOR CT**

The Court made the following:

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

AND

HONOURABLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.22898 OF 2020

ORDER:

(Per Sri Justice M.S.Ramachandra Rao)

In this Writ Petition, the petitioner assails the Assessment Order A.O.No.38227 dt.16.03.2020 passed by the 1st respondent under the CST Act, 1956 for the period April, 2015 to March, 2016.

2. The petitioner contends that a show-cause notice dt.04.09.2019 was issued to it to its registered e-mail by the 1st respondent proposing to levy tax on certain inter-State sales turnover.

3. The petitioner states that it gave a response electronically disputing the turnover proposed to be taxed and requesting for a personal hearing and indicating that it had not scored any such turnover.

4. The petitioner also states that it appeared for personal hearing before the 1st respondent on 13.03.2020 and reiterated its contentions that the turnover which is proposed to be taxed does not relate to it.

5. According to the petitioner, the 1st respondent passed the impugned order confirming the liability mentioned in the show-cause notice without considering the reply given or submissions made at the time of personal hearing.

6. Sri M.Govind Reddy, learned Special Counsel for Commercial Taxes appearing for the respondents does not dispute that the 1st respondent had not considered the response given by the petitioner

electronically or the contentions raised by the petitioner during the personal hearing.

7. In these circumstances, we are of the opinion that the impugned order is vitiated.

8. Accordingly, the Writ Petition is allowed; the impugned Assessment Order A.O.No.38227 dt.16.03.2020 passed by the 1st respondent is set aside; the matter is remitted back to the 1st respondent for fresh consideration; the petitioner is permitted to file objections to the show-cause notice dt.04.09.2019 with supporting material within six (6) weeks from the date of receipt of a copy of this order; 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.

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

//TRUE COPY//

SD/-B.SATYAVATHI
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. Commercial Tax Officer, Bodhan Circle, Nizamabad Division, Nizamabad.
2. The Principal Secretary to Government, Revenue (CT-II) Department, State of Telangana, Secretariat, Hyderabad
3. One CC to Sri. S. Dwarakanath, Advocate [OPUC]
4. One CC to Sri. M. Govind Reddy, Spl. SC for CT (OPUC)
5. Two CD Copies.

PM

HIGH COURT

DATED:30/12/2020

ORDER

WP.No.22898 of 2020



Allowing the WP
Without costs.

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[Signature]
06/01/2021