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: 22942 OF 2020

Between:

M/s. Anthelio Business Technologies Private Limited, rep. by its Authorised Representative, Mr. NSV Krishna Rao, Level-1 Part-A, Tower-1, Phase-2, Wave Rock, APIIC IT SEZ, Nanakramguda Village, Serilingampally, Rangareddy District, Telangana

...PETITIONER

AND

1. Commercial Tax Officer, Madhapur-III Circle, Hyderabad Rural Division, Hyderabad.
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.44751 dated 29/3/2020 for the assessment year 2015-16 under the Central Sales Tax Act, 1956, as being illegal and in violation of principles of natural justice and consequently direct the 1st Respondent to re-assess the Petitioner for the year 2015-16, after giving proper show cause notice in accordance with Rule 64 of the Telangana VAT Rules, 2005 and an opportunity to file objections and a personal hearing and thereafter pass assessment order in accordance with law

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 demand of Rs.3,08,40,047/- pursuant to the impugned order of the 1st Respondent dated 29.3.2020 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 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.22942 OF 2020

O R D E R:

(Per Sri Justice M.S.Ramachandra Rao)

In this Writ Petition, the petitioner assails the Assessment Order A.O.No.44751 dt.29.03.2020 passed by the 1st respondent for the assessment year 2015-16 under the CST Act, 1956.

2. It is the contention of the petitioner that a demand notice dt.20.10.2020 was issued by the 1st respondent to the petitioner demanding payment of tax of Rs.3,08,40,047/- for the year 2015-16 under the CST Act, 1956; that the petitioner then submitted a reply on 25.10.2020 asking the 1st respondent to indicate on what basis such demand is being made since it is SEZ Unit; that the 1st respondent then issued a garnishee notice dt.21.11.2020 to the petitioner's banker attaching the petitioner's bank account for the said amount; and the petitioner then approached the 1st respondent and came to know about the impugned Assessment Order dt.29.03.2020.

3. The petitioner contends that though the impugned Assessment Order refers to the issuance of a show-cause notice to the petitioner as well as reminder notice dt.16.11.2019 and final notice dt.06.03.2020, none of these notices were served on the petitioner and no personal hearing was also provided to the petitioner.

4. Sri M.Govind Reddy, learned Special Counsel for Commercial Taxes appearing for the respondents does not dispute the fact that the

impugned Assessment Order was passed by the 1st respondent without serving any pre-assessment show-cause notice or other notices on the petitioner and no personal hearing was afforded to the petitioner.

5. We are satisfied that there has been violation of principles of natural justice which has caused grave prejudice to the petitioner.

6. Accordingly, the Writ Petition is allowed; the impugned Assessment Order A.O.No.44751 dt.29.03.2020 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 serve a show-cause notice on the petitioner indicating the turnover proposed to be taxed and the tax proposed to be levied thereon in accordance with Rule 64(1)(b) of the TVAT Rules, 2005; the petitioner is granted six (6) weeks time from the date of receipt of the said notice to file objections thereto along with supporting material; 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.

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

SD/-N.CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,
1. The Commercial Tax Officer, Madnapur-III Circle, Hyderabad Rural Division, Hyderabad.
2. The Principal Secretary, 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 Commercial Taxes (OPUC)
5. Two CD Copies

MBC

HIGH COURT

DATED: 30/12/2020

HIGH COURT FOR THE STATE OF TELANGANA
07 JAN 2021
★ DESPATCHED ★

ORDER

WP.No.22942 of 2020

ALLOWING OF THE WRIT PETITION

WITHOUT COSTS

6
07/01/2021.