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

MONDAY, THE FIRST DAY OF FEBRUARY
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO
AND
THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION NO. 1858 OF 2021

Between:

M/s. Nucon Pneumatics Private Limited, Rep. by its Commercial Manager, Mr. KNV Rama Swamy, Plot No.5, Phase -1, IDA, Pashamylaram, Medak District-502 307.

...PETITIONER

AND

1. Assistant Commissioner (ST), Sangareddy Circle-I, Sangareddy.
2. Commercial Tax Officer, Ramayanpet Road, Medak.
3. 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 Mandamus or any other appropriate writ or order or direction to set - aside the impugned order of the 2nd Respondent passed in AO No.37020 dated 27/3/2020 and consequently set-aside the notice issued to the Petitioner's bank for the assessment year 2015-16 under the Central Sales Tax Act, 1956 as being illegal, contrary to record and in violation of principles of natural justice and consequently direct the 2nd Respondent to re-assess the Petitioner for the assessment year 2015-16, after giving proper show cause notice and an opportunity to file objections and a personal hearing and thereafter pass assessment order in accordance with law.

IA NO: 1 OF 2021

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 all further proceeding pursuant to the impugned order of the 2nd Respondent dated 27/3/2020 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: M/s. K. UMA

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

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO
AND
THE HON'BLE SRI JUSTICE T. VINOD KUMAR

<u>WRIT PETITION NO.1858 OF 2021</u>

<u>ORDER :</u> *(per Hon'ble Sri Justice T. Vinod Kumar)*

In this Writ Petition, the petitioner has assailed the correctness of Assessment Order in A.O. No. 37020 dated 27.03.2020 passed by the 2nd respondent under the provisions of Central Sales Tax Act, 1956 (for short 'the CST Act') for the Assessment Year 2015-16.

2. It is contended by the petitioner that the 2nd respondent authority has passed the impugned order without issuing any notice or affording the petitioner with an opportunity of personal hearing. It is also contended that the impugned order was passed by the 2nd respondent authority during the lockdown period announced by both the Central and State Governments. Learned Counsel for the petitioner also contends that, though the impugned order of assessment records that a reminder notice dated 16.11.2019 and final notice dated 06.03.2020 as having been issued, no such notice was served on the petitioner. It is also submitted that the petitioner became aware of the impugned order only upon the respondent authority initiating proceedings under Section 29 of the Telangana VAT Act, 2005 and issuing notice to the petitioner banker on 02.01.2021. Learned Counsel for the petitioner further submits that the impugned order has been passed by the 2nd respondent authority without considering the C, H and I declaration forms and other documentary evidence filed under the cover of letter dated 12.09.2019 and available on record

and thus, the order of assessment is vitiated for non-consideration of material on record.

3. Sri M. Govind Reddy, learned Special Standing Counsel for Commercial Taxes, appearing for the respondent does not dispute the fact of the petitioner not being afforded an opportunity of hearing or the final notice dated 06.03.2020 having been served on the petitioner. He is also unable to explain the reason as to why the 2nd respondent did not consider the declaration Forms C, H and I and other documentary evidence filed by the petitioner and available on record, while passing the impugned Order of Assessment.

4. In view of the above, this Court is satisfied that apart from violation of principles of natural justice causing prejudice to the petitioner, the impugned order is also vitiated for non-consideration of the material available on record.

5. Accordingly, the Writ Petition is allowed; the impugned order bearing A.O. No.37020 dated 27.03.2020 passed by the 2nd respondent against the petitioner for the period 2015-16 under CST Act is set aside; the matter is remitted back to the 2nd respondent for fresh consideration; the 2nd respondent shall serve a fresh show cause notice on the petitioner indicating therein the turnover proposed to be assessed to tax and also the tax proposed to be levied thereon, in accordance with Rule 64(1)(b) of the Telangana VAT Rules, 2005; the petitioner is granted six weeks time from the date of receipt of such show cause notice to file the objections thereto, along with supporting material and also any additional declaration forms received subsequently; personal

hearing shall be afforded to the petitioner by the 2nd respondent; and the 2nd respondent thereafter shall pass a reasoned order in accordance with law and communicate the same to the petitioner. No order as to costs.

6. As a sequel thereto, the miscellaneous petitions pending, if any, shall stand closed.

SD/-L.LAKSHMI BABU
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Assistant Commissioner (ST), Sangareddy Circle-I, Sangareddy.
2. The Commercial Tax Officer, Ramayanpet Road, Medak.
3. The Principal Secretary to Government, Revenue (CT-II) Department, State of Telangana, Secretariat, Hyderabad.
4. One CC to M/s. K. Uma, Advocate [OPUC]
5. Two CCs to Sri M. Govind Reddy, Special Standing Counsel for Commercial Taxes, High Court for the State of Telangana at Hyderabad. [OUT]
6. Two CD Copies.

MP

HIGH COURT

DATED:01/02/2021

HIGH COURT FOR THE STATE OF TELANGANA
15 FEB 2021
DESPATCHED

ORDER

WP.No.1858 of 2021

ALLOWING THE WRIT PETITION
WITHOUT COSTS

8 VLV
11/2/21