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

TUESDAY ,THE FIFTH DAY OF JANUARY
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO
AND
THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO: 23035 OF 2020

Between:

M/s.Yaganti Agro Tech Private Limited, Plot No.38, Sy.No.9, Green Park Avenue, NH-7, Suchitra Circle, Jeedimetla, Secunderabad - 500 055. Rep. by its Managing Director Mr. Yaganti Chandra Sekhara Rao

...PETITIONER

AND

1. The Commercial Tax Officer, (Now Assistant Commissioner of State Tax) Jeedimetla-I Circle, Hyderabad Rural Division, Hyderabad.
2. The Manager, HDFC Bank, 04-089/G/A/B/1A, Opp. Diwan Dhaba, SomuResidency, NHZ, Petbasheerabad, Ranga Reddy District.
3. The State of Telangana, Rep. by its Principal Secretary, Revenue (CT) Department, Telangana 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 Writ of Mandamus or any other appropriate Writ or Order or direction declaring the action of the 1st Respondent in passing the Exparte Assessment Proceedings, dated 30/03/2020 for the tax period 2015-16 under the Central Sales Tax Act 1956, without serving Notice and without granting an opportunity of being heard to the Petitioner, levying tax @ 14.5% by doubling the turnover, even though the Sowing Seeds are exempted from tax falling under Item No.44 of the I Schedule of the TVAT Act, and issuing a Garnishee Notice, dated 10.11.2020 to the 2nd respondent bank, without serving a copy to the Petitioner and without serving the Assessment Proceedings, dated 30.03.2020, as arbitrary, contrary to law, barred by limitation for the tax period April, 2015 to February, 2016, high handed, and the same is in violation of principles of natural justice, without jurisdiction; and consequently set aside the Exparte Assessment Proceedings of the 1st respondent, dated 30.03.2020, sent through email, as null and void.

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 all further proceedings, in pursuance of the Exparte Assessment Proceedings, of the respondent dated 30.03.2020, for the tax period 2015-16, under Central Sales Tax Act 1956, including Garnishee Notice, dated 10.11.2020 issued to the 2nd respondent bank, by the 1st respondent, pending disposal of the above Writ Petition, as otherwise, the Petitioner will be put to severe loss and hardship.

Counsel for the Petitioner : SRI SHAIK JEELANI BASHA
Counsel for the Respondents: SRI M. GOVIND REDDY.
SPECIAL 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.23035 OF 2020

O R D E R: (Per Sri Justice M.S Ramachandra Rao)

Petitioner has filed this Writ Petition challenging the Assessment Order No.46585 dt.30.03.2020 passed by the 1st respondent for the assessment year 2015-16 under the CST Act, 1956.

2. According to the petitioner, a letter dt.18.11.2020 was received by its banker-2nd respondent with a copy of the garnishee dt.10.11.2020 from the 1st respondent stating that they received notice dt.10.11.2020 under Section 79 of the Telangana State Goods and Service Tax Act, 2017 to attach the petitioner's account and to remit a sum of Rs.2,12,69,636/- payable by the petitioner.

3. Petitioner contends that thereafter petitioner's accountant approached the 1st respondent and requested for a copy of the original impugned order dt.30.03.2020 but the 1st respondent suggested that the petitioner can download it from the web-portal of the Commercial Tax Department.

4. Petitioner contends that thereafter the petitioner downloaded the same from the portal of the Commercial Tax Department.

5. Petitioner contends that after going through it, petitioner noticed that though it mentions about a show-cause notice, reminder notice dt.16.11.2019 and a final notice dt.06.03.2020 allegedly issued to the petitioner, none of these notices were served on the petitioner and no personal hearing is provided to the petitioner, and this has resulted in grave prejudice to the petitioner.

6. According to the petitioner, the assessment proceedings of the 1st respondent for the period April, 2015 to February, 2016 are also barred by limitation as per sub-Rule 5A of Rule 14A of the CST(Telangana) Rules and the impugned order was passed during the lockdown period imposed by the State as well as the Central Governments on account of COVID-19 pandemic when no Government office except the Government Departments dealing with emergency services were functioning.

7. Sri M.Govind Reddy, the Special Counsel for Commercial Taxes appearing for the respondents does not dispute that prior to the passing of the impugned assessment order, the 1st respondent had not served on the

petitioner any notices, and no personal hearing was also afforded to the petitioner, and that the impugned order was passed during the lockdown period imposed by the State as well as the Central Governments on account of COVID-19 Pandemic situation.

8. In the circumstances, we are satisfied that there has been a violation of principles of natural justice, which has caused grave prejudice to the petitioner.

9. Accordingly, the Writ Petition is allowed; the impugned Assessment Order No.46585 dt.30.03.2020 as well as the garnishee notice dt.10.11.2020 issued by the 1st respondent are both set aside; the matter is remitted back to the 1st respondent for fresh consideration; 1st respondent shall serve on the petitioner a show-cause notice indicating the turnover proposed to be taxed and the tax proposed to be levied thereon as per Rule 64(1)(b) of the Telangana VAT Rules; petitioner is granted six weeks from the date of receipt of such show cause notice to file objections thereto along with supporting material; personal hearing shall be provided 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.

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

SD/-K.ONESIM
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Commercial Tax Officer, (Now Assistant Commissioner of State Tax) Jeedimetla-I Circle, Hyderabad Rural Division, Hyderabad.
2. The Manager, HDFC Bank, 04-089/G/A/BRA, Opp.Diwan Dhaba, SomuResidency, NHZ, Petbasheerabad, Ranga Reddy District.
3. The Principal Secretary, Revenue (CT) Department, State of Telangana, Telangana Secretariat, Hyderabad.
4. One CC to Sri Shaik Jeelani Basha, Advocate [OPUC]
5. One CC to Sri M. Govind Reddy, Special SC for Commercial Taxes, Advocate [OPUC]
6. Two CD Copies

sm

HIGH COURT

DATED:05/01/2021

HIGH COURT FOR THE STATE OF TELANGANA
12 JAN 2021
DESPATCHED

ORDER

WP.No.23035 of 2020

ALLOWING THE WP

WITHOUT COSTS

AJA ⑦
11/1/2021