

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

WEDNESDAY, THE EIGHTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

**THE HONOURABLE SRI JUSTICE SUJOY PAUL
AND**

THE HONOURABLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

WRIT PETITION NO: 10625 OF 2017

Between:

M/s. Appnaa Commodity Trade Private Limited, # 101, Ground Floor, D.No. 21-2-141/142, Charkaman, Hyderabad -2, Rep. by its Managing Director, Mr. Amit Kumar Agarwal.

.....PETITIONER

AND

1. The State of Telangana, rep by its Principal Secretary, Revenue (CT) Department, Secretariat, Hyderabad.
2. Deputy Commercial Tax Officer, Begum Bazar Circle, Charminar Division, 5th Floor, Gagan Vihar, Nampally, Hyderabad.
3. Commercial Tax Officer, Lad Bazar Circle, Charminar Division, Gagan Vihar, Nampally, Hyderabad.
4. Deputy Commissioner (CT) Charminar Division, Gagan Vihar, 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 pass an order or orders or issue a writ or writs more particularly one in the nature of Writ of Mandamus declaring the order of assessment bearing AO No. 5657 dated 05.08.2011 for the period 2011-12 (Upto 14.06.2011) passed by the 2nd respondent as illegal, without jurisdiction and contrary to the decision of this Hon'ble Court in the case of Balaji Flour Mills Vs. Commercial Tax Officer, reported in (2011) 40 VST 150.

I.A.NO:1 OF 2017 (WPMP.NO:13174 OF 2017)

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 direct the respondents to forthwith raise the attachment so as to enable the petitioner to operate the account No. 405800300001310, Vijaya Bank, Charminar Branch, Hyderabad, during pendency of the writ petition.

Counsel for the Petitioner : SRI P.BALAJI VARMA

Counsel for the Respondents : SRI T.CHAITANYA KIRAN, AGP REPRESENTING SRI SWAROOP OORILLA, SPL G.P FOR STATE TAX

The Court made the following ORDER

**THE HONOURABLE SRI JUSTICE SUJOY PAUL
AND
THE HONOURABLE SRI JUSTICE NAMAVARAPU
RAJESHWAR RAO**

WRIT PETITION No.10625 of 2017

ORDER: *(Per Hon'ble Justice Sujoy Paul)*

With consent finally heard, Sri P. Balaji Varma, learned counsel for the petitioner. Sri T. Chaitanya Kiran, learned Assistant Government Pleader representing Sri Swaroop Oorilla, learned Special Government Pleader for State Tax, for respondents.

2. During the course of hearing, learned counsel for the parties fairly submitted that in view of relevant statutory provision, which is interpreted by the Division Bench of this Court in W.P.No.855 of 2008 and batch (Annexure P-7), the impugned assessment order dated 05.08.2011 cannot sustain judicial scrutiny. As per the then prevailing provision, there has to be separate order for audit and assessment, whereas in the impugned order, it is done in common way, which is bad in law. In view of the above, the parties agreed that impugned order may be set aside by reserving liberty to the respondents to proceed against the petitioner in accordance with law.

3. In view of the consensus arrived at, the Writ Petition is **disposed of** setting aside the impugned order with a liberty as prayed for. There shall be no order as to costs. Miscellaneous applications, if any, shall stand closed.

SD/- P.PADMANABHA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Principal Secretary, Revenue (CT) Department, Secretariat, State of Telangana at Hyderabad.
2. The Deputy Commercial Tax Officer, Begum Bazar Circle, Charminar Division, 5th Floor, Gagan Vihar, Nampally, Hyderabad.
3. The Commercial Tax Officer, Lad Bazar Circle, Charminar Division, Gagan Vihar, Nampally, Hyderabad.
4. The Deputy Commissioner (CT) Charminar Division, Gagan Vihar, Hyderabad.
5. Two CCs to GP FOR COMMERCIAL TAXES, High Court for the State of Telangana at Hyderabad. [OUT]
6. One CC to SRI SWAROOP OORILLA, SPL G.P FOR STATE TAX [OPUC]
7. One CC to SRI P.BALAJI VARMA, Advocate [OPUC]
8. Two CD Copies

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HIGH COURT

DATED:18/09/2024

ORDER

WP.No.10625 of 2017



DISPOSING OF THE W.P
WITHOUT COSTS.

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- 11/11/24
11 Copies.