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

THURSDAY, THE FOURTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HON'BLE SRI JUSTICE P.SAM KOSHY
AND
THE HON'BLE SRI JUSTICE N.TUKARAMJI

WRIT PETITION NO.14264 OF 2021

Between:

M/s.Houseware Distribution Network, SY.No.183/C, Kompally-VIII, Back side, Nuziveed Seeds, Hyderabad - 500 100. Rep. by its Authorised Signatory Mr. Kamal Manharlal Shah

...PETITIONER

AND

1. The Commercial Tax Officer, (Now The Assistant Commissioner State Tax), Agapura Circle, Hyderabad.
2. The Commercial Tax Officer, (Now The Assistant Commissioner State Tax), Mehdipatnam Circle, Hyderabad.
3. The Commissioner of Commercial taxes, Commercial Taxes Complex, M.J.Road, Hyderabad.
4. 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 Wirt of Mandamus or any other appropriate Writ or Order or Direction declaring the inaction of the respondents in not refunding the amount due to the Petitioner to a tune of Rs.52,04,654/- and Rs.82,666/- under the provisions of the TVAT Act 2005, as per Section 33(2) of the Act, 2005 as well as the orders of the Hon'ble Court as arbitrary, contrary to law, in violation of principles of natural justice and consequently direct the respondents to refund the amounts due to the Petitioner, with interest @ 12 % per annum forthwith.

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 direct the respondents to refund the amounts due to the Petitioner, with interest @ 12 % per annum forthwith, as per the representations of the Petitioner dated 08.03.2018, 27.05.2019, 25.11.2019, 09.01.2020 and 31.08.2020, pending disposal of the above Writ Petition, as otherwise, the Petitioner would be put to severe loss and hardship.

Counsel for the Petitioner: Mr. SHAIK JEELANI BASHA

Counsel for the Respondents:
SPECIAL STANDING COUNSEL FOR COMMERCIAL TAXES

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE P.SAM KOSHY

AND

THE HON'BLE SRI JUSTICE N.TUKARAMJI

W.P.No.14264 of 2021

ORDER: *(per Hon'ble Sri Justice **P.SAM KOSHY**)*

Heard Mr. Shaik Jeelani Basha, learned counsel for the petitioner and learned Special Standing for Commercial Taxes, appearing for the respondents. Perused the entire record.

2. The instant writ petition has been filed seeking for a direction to the respondents for immediately processing the claim of the petitioner for refunding of amount due to the petitioner to the tune of Rs.52,04,654/- and Rs.82,666/- under the provisions of the TVAT Act, 2005.

3. The instant writ petition was one which was filed as early as on 24.06.2021 and the respondents have filed their counter affidavit on 24.07.2021. In their counter, they have made a categorical statement that the petitioner is eligible for refund of an amount of Rs.36,26,612/- as per the consequential assessment/Penalty orders already passed. It has also been categorically accepted by the respondents in their counter that the eligible refund amount of Rs.36,26,612/- would be processed and made immediately on the petitioner making claim to the respondents, in accordance with law. As regards, the initial claim

of Rs.52,04,654/-, the respondents in their counter have stated that there was re-assessment again done and an amount of Rs.14,45,055/- was already ordered to be appropriated towards the tax demand payable by the petitioner in terms of the fresh assessment made in the year 2015 for the Assessment Year 2006-07, 2007-08 (From February, 2008 to upto August, 2009) and 2009-10. In the counter, it has also been shown that there is a fresh Assessment Order passed in the year 2015 which has not been further challenged by the petitioner.

4. Since there is a fresh Assessment Order already passed and there is a demand of Rs.14,45,055/- already raised by the Department payable on the part of the petitioner, the said amount has been ordered to be appropriated from the amount of Rs.52,04,654/- and after adjusting the same, the respondents reached to the conclusion that the petitioner is entitled to the refund of Rs.36,26,612/-.

5. In view of the said specific counter filed by the respondents, we do not intend to keep the writ petition pending any further. The writ petition can be disposed of in terms of the contents of paragraph No.6 of the counter affidavit filed by the respondents, whereby, they have given undertaking to refund the amount of

Rs.36,26,612/- to the petitioner, upon the petitioner making a claim application in accordance with law.

6. Accordingly, the writ petition at this juncture stands allowed and respondent No.1 is directed to immediately refund the amount of Rs.36,26,612/- along with the interest, upon the petitioner making representation/application, in accordance with the provision of law. So far as the fresh Assessment that was made in the year 2015 is concerned, we do not make any observation in the present writ petition. It is left open for the petitioner to avail appropriate remedies, if permissible under the law to challenge the same in accordance with law.

7. Respondents are further directed to complete the exercise within a period of sixty (60) days from the date the petitioner completes his formalities.

Consequently, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

SD/- K.SAI KUMARI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Commercial Tax Officer, (Now The Assistant Commissioner State Tax), Agapura Circle, Hyderabad.
2. The Commercial Tax Officer, (Now The Assistant Commissioner State Tax), Mehdipatnam Circle, Hyderabad.
3. The Commissioner of Commercial Taxes, Commercial Taxes Complex, M.J.Road, Hyderabad.
4. The Principal Secretary, Revenue (CT) Department, State of Telangana, Telangana Secretariat, Hyderabad.
5. One CC to SRI SHAIK JEELANI BASHA, Advocate [OPUC]
6. One CC to Special Standing Counsel for Commercial Taxes [OPUC]
7. Two CD Copies

MP
GJ

HIGH COURT

DATED:04/01/2024

ORDER

WP.No.14264 of 2021

ALLOWING THE WRIT PETITION
WITHOUT COSTS

MBL
29/01

(9) Copies
GBR