APHC010124152023

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

Bench Sr.No:-12 [3543]

WRIT PETITION NO: 6301 of 2023

Sree Vekateswara Enterprises Private Limited ...Petitioner

Vs.

The Commercial Tax Officer and Others ...Respondent(s)

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CORAM : SRI JUSTICE NINALA JAYASURYA
SRI JUSTICE T.C.D.SEKHAR

DATE : 2nd November 2026

Present :

Advocate for Petitioner : SRINIVASA RAO KUDUPUDI

Advocate(s) for Respondent(s) : GP FOR COMMERCIAL TAX,

HON'BLE SRI JUSTICE NINALA JAYASURYA

AND

HON'BLE SRI JUSTICE T.C.D. SEKHAR

WP No.6301 OF 2023

ORDER:- *(Per Hon'ble Sri Justice T.C.D. Sekhar)*

1. The petitioner is a registered VAT dealer, having engaged in the business of trading Steel Pipes. The 1st respondent issued show cause notice dt.06.08.2018 proposing to disallow Input Tax Credit in relation to the period 2014-15. Subsequently, the 1st respondent issued revised show cause notice dt.16.03.2019, whereunder the proposed disallowance of Input Tax Credit was restricted to Rs.55,83,514/-. As the petitioner could not file objections, the 1st respondent proceeded with the assessment and passed order dt.28.10.2019 confirming the proposal.

2. Aggrieved by the said assessment order dt.28.10.2019, the petitioner preferred appeal before the 2nd respondent. Having heard the petitioner, the 2nd respondent by order dt.31.12.2021 remanded the appeal to the 1st respondent with a direction to reduce the amounts mentioned in purchase

and sale turnovers related to Telangana State from the turnovers of State of Andhra Pradesh.

3. Feeling aggrieved by the order of the 2nd respondent in the appeal, the petitioner approached the Andhra Pradesh Value Added Tax Appellate Tribunal by filing appeal on 31.03.2022, inasmuch as the 1st Appellate Authority did not record any finding on the issue of limitation raised by the petitioner. Along with the said appeal, the petitioner also preferred a petition seeking stay of remand proceedings passed by the 1st Appellate Authority.

4. Pending the appeal before the Tribunal, the 1st respondent issued notices dt.17.03.2022 and 17.12.2022 to the petitioner, so as to pass consequential orders pursuant to the remand order passed by the 2nd respondent. To which, the petitioner submitted its replies dt.28.12.2022 and 18.01.2023 duly informing the 1st respondent about the pendency of appeal filed by the petitioner before the Tribunal. However, the 1st respondent proceeded with the assessment and passed consequential order dt.28.02.2023 confirming the remand raised in the original

assessment order dt.28.10.2019. Questioning the said order, the present writ petition is filed.

5. The 1st respondent filed counter affidavit reiterating, what has been stated in the order of assessment and consequential order dt.28.02.2023. It was specifically stated in the counter affidavit, the petitioner did not submit DCB report and VAT return report downloaded from Telangana VATIS Portal, despite issuing repeated notices. It was further averred that in those circumstances, the consequential order which is impugned in the writ petition came to be passed and there is no illegality or irregularity in the order.

6. Heard Sri Kudupudi Srinivasa Rao, counsel for the petitioner and Sri S.A.V.Sai Kumar, learned Assistant Government Pleader for Commercial Taxes.

7. Perused the material available on record.

8. It is not in dispute that as against the assessment order dt.28.10.2019, the petitioner preferred appeal before the 2nd respondent and the same was allowed by order dt.31.12.2021. For proper appreciation, the operative portion of the 2nd respondent's order is reproduced hereunder:

> *"It is a fact that whatever may be reasons, the assessing authority has adopted turnovers recorded in the I.T. returns very much contradicting to appellant's scored turnover as per their arguments and returns. In view of such anomaly, it is nevertheless desirable that such omission needs to be verified and rectified by duly taking consideration of the appellant explanations/evidence to up keep the principles of natural justice. Hence, the Assessing Authority is hereby directed to reduce the above mentioned purchase and sale turnovers related to Telangana State from the assessable turnovers of A.P. State. After reduction of Telangana state turnovers from the assessable turnovers of A.P. State, the AA is at liberty to assess the appellant as per the provisions of A.P. VAT Act, if still there are any variations identified in purchase and sale turnovers relating to A.P. State. Therefore, it is felt that would meet ends of justice in remitting the matter back to the assessing authority i.e., Commercial Tax Officer, Park Road Circle, No.1 Division, Vijayawada who is having territorial jurisdiction over the appellant, who shall verify the claims of the appellant in view of the above discussed facts and evidence."*

9. On a reading of the order of the 2nd respondent, it is clear that the 1st respondent was directed to reduce the purchase and sale turnovers related to Telangana State from the assessable turnovers of A.P. State. Further, the 1st respondent was also directed to verify the claim of the petitioner as per the records produced by him. Though, the 1st respondent has taken up the matter to pass consequential order upon remand, it is evident from the order under challenge that the 1st respondent confirmed the original assessment order with the following observations:

> *"The appellate authority has clearly directed the assessing authority to verify the claims of the appellant in view of the discussed facts in the order and evidences and pass such orders afresh. At the time of appeal dealer furnished VAT 200 returns submitted in Telangana state and DCB report and VAT return report downloaded from Telangana VATIS portal, which he has not submitted to the assessing authority even after repeated notices.*
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> *In these circumstances, left with no option with the assessing authority to pass orders by confirming the demand of original assessment order."*

10. It is borne out of the record that, while passing the assessment order the turnover of the petitioner in relation to Telangana State was also included and the same was found fault with by the 2nd respondent/appellate authority and the appeal was allowed with specific direction to the 1st respondent to reduce the turnover in relation to Telangana State and pass consequential order. Though, the 1st respondent observed the remand direction issued by the 2nd respondent in the impugned order, for the reason best known to the 1st respondent, concluded the assessment proceedings by passing the impugned consequential assessment order dt.28.02.2023 confirming the original assessment order.

11. While passing the impugned order, the 1st respondent observed that inspite of repeated notices issued to the petitioner, DCB report and VAT return report downloaded

from the Telangana VATIS Portal was not submitted before him. In this connection, it is pertinent to note that the petitioner has filed all the relevant material including DCB report and VAT return report downloaded from the Telangana VATIS Portal before the appellate authority. Nothing is placed on record to show, as to why the 1st respondent has not taken any steps to get the documents filed along with the appeal from the 2nd respondent. Further, in normal course, whenever the Appellate Authority remands the matter to the Primary Authority, the entire file along with the documents would be sent to the Primary Authority for verification. In the case on hand, the 1st respondent as already observed supra, has taken no steps to get the appeal file from the 2nd respondent, nor was there any finding in the order under challenge disputing the remand directions issued by the appellate authority. Further, as the remand directions are not complied with while passing the impugned order, the same is liable to be set aside as it was not passed in tune with the remand directions. Apart from the same, the 1st respondent did not undertake to verify the turnover of the petitioner in relation to Telangana State and mechanically without application of mind and in a hasty manner, passed the order under challenge.

12. For the reasons recorded supra, viewed from any angle, the order under challenge is liable to be set aside. Accordingly, assessment order dt.28.02.2023 is set aside and the writ petition is allowed.

13. Further, the 1st respondent is directed to issue notice afresh to the petitioner calling for objections along with the supporting documents including the DCB report and VAT return report downloaded from the Telangana VATIS Portal. Upon receipt of the said notice, the petitioner shall file all the material before the 1st respondent and after affording an opportunity being heard, the 1st respondent shall pass appropriate orders in the matter.

No order as to costs. As a sequel, pending applications, if any shall stand closed.

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JUSTICE NINALA JAYASURYA

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JUSTICE T.C.D. SEKHAR

02.11.2026
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HON'BLE SRI JUSTICE NINALA JAYASURYA
AND
THE HONOURABLE SRI JUSTICE T.C.D. SEKHAR

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Date 02.11.2026

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