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

TUESDAY, THE FIFTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SRI JUSTICE UJJAL BHUYAN
AND
THE HONOURABLE SRI JUSTICE A.VENKATESHWARA REDDY

WRIT PETITION NO: 10312 OF 2022

Between:

M/s Aravind Flexi Pack (India) Private Limited, Flat No. 405, The Legend Apartments, 3-6-784/A, Street No.. 15, Himayathnagar, Hyderabad - 500 029, Telangana. Represented by its Director, Mr. M.Aravind Babu, S/o. Late Mr. M.Pandu.

...PETITIONER

AND

1. The Deputy Commissioner (ST) STU-1 / Assistant Commissioner (CT) LTU, Saroornagar Division, 5-4-435, 1st Floor, Old Kakatiya Hotel, Nampally Station Road, Hyderabad - 500 001, Tela ngana.
2. The Joint Commissioner (ST), Saroornagar Division, 2nd Floor, M4 Block, Manoranjan Complex, M.J. Road, Nampally, Hyderabad - 500 001.
3. The Assistant Commissioner (CT), Audit, Saroornagar Division,O/o. the Deputy Commissioner (CT), Saroornagar Division, 2nd Floor, M4 Block, Manoranjan Complex, M.J. Road, Nampally, Hyderabad - 500 001.
4. The Commissioner of Commercial Taxes, State of Telangana, Commercial Taxes Complex, M.J. Road, Opposite Gandhi Bhavan, Nampally, Hyderabad - 500 001.
5. The State of Telangana, Represented by its Principal Secretary (Revenue) (CT), Telangana Secretariat, Hyderabad - 500 022.

...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, Order or Direction one in the nature of Mandamus declaring the Assessment Order in A.O. No.. 34871, dated 30.03.2021 (served on 10.02.2022), passed by the 1st Respondent, for the period 2014 - 15, under the provisions of the Telangana Value Added Tax Act, 2005, on the ground that the same is void, arbitrary, highhanded, mechanical, without jurisdiction, bereft of any valid reasons, apart from being illegal, violative of principles of natural justice and Articles 14 and 265 of the Constitution of India, and consequently set-aside the same.

IA NO: 1 OF 2022

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 stay all further proceedings, including any recovery, pursuant to the Assessment Order Assessment Order in A.O. No.. 34871, dated 30.03.2021 (served on 10.02.2022), passed by the 1st Respondent, for the period 2014 - 15, under the provisions of the Telangana Value Added Tax Act, 2005, pending disposal of the above Writ Petition.

Counsel for the Petitioner: SRI J.V.RAO

Counsel for the Respondents: SRI K.RAJI REDDY, Sr.Counsel for CT

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE UJJAL BHUYAN

AND

THE HONOURABLE SRI JUSTICE A. VENKATESHWARA REDDY

Writ Petition No.10312 of 2022

ORDER: *(Per Hon'ble Sri Justice Ujjal Bhuyan)*

Heard Mr. J.V. Rao, learned counsel for the petitioner and Mr. K. Raji Reddy, learned Senior Standing Counsel for Commercial Tax, for the respondents.

2. Challenge made in this writ petition is to the Assessment Order dated 30.03.2021 passed by respondent No.1 for the period from April, 2014 to March, 2015 under the provisions of Telangana Value Added Tax Act, 2005 (briefly, 'the TVAT Act' hereinafter).

3. The assessment order states that despite several notices and reasonable opportunity granted, petitioner did not produce books of account and tax invoices, whereafter respondent No.1 passed the impugned assessment order on best judgment.

4. As per the impugned order, an amount of Rs.1,09,20,284.00 has been worked out as tax due for the aforesaid period.

5. We find that respondent No.3 had already passed assessment order on 04.11.2015 for the assessment period from May, 2010 to March, 2015.

6. We find therefrom that for the period from April, 2014 to May, 2014, respondent No.3 did not find any tax due in view of various exemptions and adjustment of input tax credit. Likewise, for the period from June, 2014 to March, 2015 it was found that an amount of Rs.5,37,714.00 was the net tax due, though an amount of Rs.12,24,500.00 was the excess input tax credit liable to be refunded to the petitioner.

7. Thus, the petitioner was already assessed to tax for the period from April, 2014 to March, 2015.

8. When the petitioner was already subjected to assessment for the aforesaid period which was computed vide the order dated 04.11.2015, we find no good reason or any justification for respondent No.1 to pass a fresh assessment order for the period from April, 2014 to March, 2015, that too, after almost six (6) years.

9. At this stage, we may mention that Mr.K. Raji Reddy, learned Senior Standing Counsel, fairly submits that possibly because of jumbling of assessment records amongst different officers, the aforesaid order came to be passed without realizing that assessment order was already passed.

10. In view of the above, we set aside the impugned assessment order dated 30.03.2021.

11. Accordingly, the writ petition is allowed to the extent indicated above. No order as to costs.

12. As a sequel, miscellaneous applications pending if any in this Writ Petition, shall stand closed.

SD/-K. AMMAJI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Deputy Commissioner (ST) STU-1 / Assistant Commissioner (CT) LTU, Saroornagar Division, 5-4-435, 1st Floor, Old Kakatiya Hotel, Nampally Station Road, Hyderabad - 500 001, Tela ngana.
2. The Joint Commissioner (ST), Saroornagar Division, 2nd Floor, M4 Block, Manoranjan Complex, M.J. Road, Nampally, Hyderabad - 500 001.
3. The Assistant Commissioner (CT), Audit, Saroornagar Division,O/o. the Deputy Commissioner (CT), Saroornagar Division, 2nd Floor, M4 Block, Manoranjan Complex, M.J. Road, Nampally, Hyderabad - 500 001.
4. The Commissioner of Commercial Taxes, State of Telangana, Commercial Taxes Complex, M.J. Road, Opposite Gandhi Bhavan, Nampally, Hyderabad - 500 001.
5. The Principal Secretary (Revenue) (CT), State of Telangana, Telangana Secretariat, Hyderabad - 500 022.
6. One CC to SRI J.V.RAO, Advocate [OPUC]
7. One CC to SRI K.RAJI REDDY, Sr.Counsel for CT [OPUC]
8. Two C.D. Copies.
9. One Spare Copy.

MRC

HIGH COURT

DATED:15/03/2022

ORDER

WP.No.10312 of 2022

ALLOWING THE WRIT PETITION
WITHOUT COSTS

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20/4/22