[3335]

(SHOW CAUSE NOTICE BEFORE ADMISSION)

IN THE HIGH COURT OF ANDHRA PRADESH: AT AMARAVATI

(Special Original Jurisdiction)

TUESDAY, THE NINTEENTH DAY OF APRIL TWO THOUSAND AND TWENTY TWO

:PRESENT:

THE HONOURABLE SRI JUSTICE C.PRAVEEN KUMAR
AND
THE HONOURABLE SMT JUSTICE V.SUJATHA

WRIT PETITION NO: 10859 OF 2022

Between:

UNITED TELE LINKS BLR LIMITED, Flat No. GI and G 6, Ground Floor, Bhavani Towers, Bhavanipuram, Vijayawada , Krishna District, Andhra Pradesh Represented by its Authorized Signatory, Sri. Nagendra C.R. S/o. Ramachandra Shastry C.L Aged about 45 years, R/o. Anekal, Bengaluru, Karnataka.

Petitioner

AND

1. State of Andhra Pradesh, Rep by its Principal Secretary, Revenue(CT) Department, Velagapudi, Amaravathi, Guntur District, Andhra Pradesh.
2. The Appellate Deputy Commissioner, Vijayawada Krishna District, Andhra Pradesh.
3. The Commercial Tax Officer, Nandigama Circle
4. The Special Chief Secretary, Government of Andhra Pradesh, Revenue (CT-II) Department, Velagapudi, Amaravathi, Guntur District, Andhra Pradesh.

Respondents

WHEREAS the Petitioner above named through its Advocate SRI.M.V.J.K.KUMAR presented this Petition under Article 226 of the Constitution of India is filed praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction particularly in the nature of Writ of MANDAMUS declaring the action of Commercial Tax Officer Nandigama Circle-3rd respondent herein which was confirmed by the appellate authority -2nd respondent herein in passing the impugned order, dated 25-03-2021 in A.O.No.ZH3703220D39046 in TIN 37250173040 and A.O.No.ZH3703210D37296 Appeal No.VJA-I/26/2021-22 in TIN 37250173040, dated 31-03-2022 levying tax on the mobile batteries and chargers sold along with the kit which has to be considered as a composite one and tax has to be levied @ 4 % or 5percent as the case may be, as illegal, arbitrary, without authority of law and jurisdiction, violative of principles of natural justice, violative of the provisions of the Act and G.O.Ms.No.307, dated 12-07-2016 and also Memo No. Rev-35021/28/2016-CT-II-1, dated 30-11-2016 and also violative of Articles 14, 19(1)(g), 21, 265 and 300A of the Constitution of India and also the judgements of the various Courts and consequently to set aside the same;

AND WHEREAS the High Court upon perusing the petition and affidavit filed herein and upon hearing the arguments of Sri.M.V.J.K.KUMAR Advocate for the Petitioner and of learned Government Pleader for Commercial Tax for respondents directed issue of notice to the Respondents herein to show cause as to why this WRIT PETITION should not be admitted.

You viz:

1. The Principal Secretary, Revenue(CT) Department, State of Andhra Pradesh, Velagapudi, Amaravathi, Guntur District, Andhra Pradesh.

2. The Appellate Deputy Commissioner, Vijayawada Krishna District, Andhra Pradesh.
3. The Commercial Tax Officer, Nandigama Circle
4. The Special Chief Secretary, Government of Andhra Pradesh, Revenue (CT-II) Department, Velagapudi, Amaravathi, Guntur District, Andhra Pradesh.

are be and hereby directed to show cause either appearing in person or through an Advocate, as to why in the circumstances set out in the petition and the affidavit filed therewith (copy enclosed) this WRIT PETITION should not be admitted on 18.05.2022, on which date the case stands posted for hearing.

IA NO: 1 OF 2022

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to grant stay of collection of disputed tax after considering the 12.5% paid by the Petitioner, pending disposal of WP No.10859 of 2022, on the file of the High Court.

THE COURT MADE THE FOLLOWING ORDER:

Notice before admission.

Learned Government Pleader for Commercial Tax takes notice on behalf of the respondents.

Learned counsel for the petitioner mainly submits that the issue involved in the present case is squarely covered by an order passed by this Court in I.A.No.1 of 2021 in W.P.No.6693 of 2021.

Learned Government Pleader for Commercial Tax disputes the same contending that the present writ petition is filed against an order passed by the first appellate authority against which a second appeal would lie in which event the petitioner shall deposit 50% of the disputed demanded amount.

At this stage, learned counsel for the petitioner would submit that the petitioner has already deposited some amount and the amount so paid may be given credit to.

Hence, having regard to the facts in issue and taking into consideration the order, dated 22.3.2021, passed by this Court in I.A.No.1 of 2021 in W.P.No.6693 of 2021 and the order, dated 01.05.2018, in W.P.No.16520 of 2018 and since the present writ petition came to be filed against an order passed by the first appellate authority, there shall be interim stay as prayed for subject to petitioner depositing 50% of the demanded amount within a period of eight (8) weeks from today. The amount paid earlier, if any, shall be given credit to. In default of payment of the said amount, the interim order automatically stands vacated.

SD/-T.MADHAVI
ASSISTANT REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To,

1. The Principal Secretary, Revenue(CT) Department, State of Andhra Pradesh, Velagapudi, Amaravathi, Guntur District, Andhra Pradesh.
2. The Appellate Deputy Commissioner, Vijayawada Krishna District, Andhra Pradesh.
3. The Commercial Tax Officer, Nandigama Circle
4. The Special Chief Secretary, Government of Andhra Pradesh, Revenue (CT-II) Department, Velagapudi, Amaravathi, Guntur District, Andhra Pradesh. (1 to 4 by RPAD- along with a copy of petition and affidavit)
5. One CC to SRI.M.V.J.K.KUMAR Advocate [OPUC]
6. Two CCs to GP for Commercial Tax, High Court Of Andhra Pradesh. [OUT]
7. Two spare copies

SRL

HIGH COURT

CPKJ & VSJ

DATED:19/04/2022

NOTICE BEFORE ADMISSION

WP.No.10859 of 2022

DIRECTION

HIGH COURT OF ANDHRA PRADESH
SPECIAL CELL
17 MAY 2022
DESPATCHED