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IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)
FRIDAY, THE SIXTH DAY OF MARCH
TWO THOUSAND AND TWENTY



:PRESENT:

THE HONOURABLE THE CHIEF JUSTICE SRI JITENDRA KUMAR MAHESHWARI
AND
THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

WRIT PETITION NO: 20971 OF 2019

Between:

M/s. Konkimalla Somayya, # 3-3-92, Kovvuru Road, Jangareddigudem -534447
Represented by its Managing Partner Sri. Konkimalla Kishore, S/o. Subba Rao, Aged
about 46 years, West Godavari District

Petitioner

AND

1. State of Andhra Pradesh, Rep by its Principal Secretary, Revenue (CT) Department, Velagapudi, Amaravati, Guntur District, Andhra Pradesh.
2. The Commercial tax Officer, Jangareddigudem, West Godavari District, Andhra Pradesh.
3. The Special Chief Secretary, Government of Andhra Pradesh, Revenue (CT-II) Department, Velagapudi, Amaravati, Guntur District, Andhra Pradesh.

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 an appropriate writ, order or direction particularly in the nature of Writ of mandamus declaring the action of 2ND respondent -Commercial Tax Officer, Jangareddygudem in passing the order dated 09-09-2019 in Form VAT 305 in TIN 37890277326 for the periods 2013-14 to 2016-17 in levying tax 9.5% (14.5% -5%) on the batteries, chargers and headphones sold by the Petitioner to its customers in a composite pack relying on the judgment of Supreme Court in Nokia case reported in AIR 2015 SC 1068, (2014) 16 SCC 410 which is distinguished with reasons by the Allahabad High Court reported in (2018) 66 GST 1 as illegal, arbitrary, unjust, improper, violative of principles of natural justice and against the clarificatory amendment to sub entry (15) of Entry 39 of IV Schedule to the APVAT Act 2005 and violative of articles 14, 19(1)(g) of the Constitution of India and consequently set aside the impugned order and grant such other relief or reliefs as are deemed fit and proper under the circumstances of the case.

IA NO: 1 OF 2019 : Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in W.P., the High Court may be pleased to direct the 2nd respondents not to take any coercive action for recovery of the disputed tax of Rs. 5,16,135/- else the Petitioner would suffer serious loss and hardship and grant such other relief or reliefs as are deemed fit and proper under the circumstances of the case, Pending disposal of WP 20971 of 2019, on the file of the High Court

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in W.P., and order of the High Court dated 23-12-2019 made herein and upon hearing the arguments of Sri M V J K Kumar, Advocate for the Petitioner, and of GP for Commercial Taxes for Respondent Nos 1 to 3, the Court made the following

ORDER:

List after six weeks for counter-affidavit.

Interim order passed earlier shall continue to operate till then.

//TRUE COPY//

SD/- M. SURYANADHA REDDY
ASSISTANT REGISTRAR

For ASSISTANT REGISTRAR

To,

1. One CC to Sri. M V J K Kumar Advocate [OPUC]
2. Two CCs to GP for Commercial Taxes, High Court of Andhra Pradesh. [OUT]
3. One spare copy

TVR

HIGH COURT

HCJ & NJSJ

DATED:06.3.2020

NOTE: LIST AFTER SIX WEEKS

ORDER

WP.No.20971 of 2019

INTERIM STAY EXTENDED

6 MARCH 2020