

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

THURSDAY, THE SIXTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

**THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE SUDDALA CHALAPATHI RAO**

WRIT PETITION NOS: 7458 OF 2015, 9853 & 12395 OF 2013

WRIT PETITION NO: 7458 OF 2015

Between:

M/s. Globe Surgicals, 3-6-361/23/1, First Floor, Street No.20, Opp Oil Seed Colony Park, Himayath Nagar, Hyderabad-029, Rep by its Proprietor, B.Mohan Reddy.

...PETITIONER

AND

1. The Commercial Tax Officer (audit), Hyderguda Circle, Abids Division, Hyderabad.
2. The Commercial Tax Officer (audit), Abids Division, Hyderabad.
3. State of Telangana, Rep by its Secretary, Revenue Department, Government of Telangana, 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 Writ of Mandamus or any other appropriate writ declaring the order of assessment dated- 14.02.2015 is equally illegal, arbitrary and without jurisdiction and accordingly set-aside the same.

I.A. NO: 1 OF 2015(WPMP. NO: 9902 OF 2015)

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 suspend the operation of the order of assessment dated: 14.02.2015, pending disposal of the above writ petition.

**Counsel for the Petitioner: SRI A.V.A.SIVA KARTIKEYA, REP. FOR
SRI VIVEK CHANDRA SEKHAR.S**

**Counsel for the Respondents: SRI T.CHAITANYA KIRAN, AGP, REP. FOR
SRI SWAROOP OORILLA, SPL. GP FOR STATE TAX**

WRIT PETITION NO: 9853 OF 2013

Between:

M/s. S.S.Associates, rep. by its Proprietor, Smt.Sasmita Waghray, W/o.
Sanjay Waghray, aged 44 Years, R/o. Hyderabad

...PETITIONER

AND

The Commercial Tax Officer, M.J Market Circle, Hyderabad

...RESPONDENT

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 WRIT OF MANDAMUS or any other appropriate writ declaring the order of assessment dated 20.03.2013 passed by the Respondent, viz. the Commercial Tax Officer, M.J.Market Circle, Hyderabad, in his AO 18833 TIN No.28140155810 running counter to G.O.Ms.No.1615, dated 31.08.2005 and Advance Ruling Authority dated 22.05.2009 in the petitioners own case is illegal, arbitrary and without jurisdiction and accordingly set aside the same and pass such other order or orders as this Honble Court may deem fit and proper in the circumstances of the case and in the interests of justice.

I.A. NO: 2 OF 2013(WPMP. NO: 12276 OF 2013)

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 suspend the operation of the order of assessment dated 20.03.2013, pending disposal of the Writ Petition, and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and in the interests of justice.

**Counsel for the Petitioner: SRI A.V.A.SIVA KARTIKEYA, REP. FOR
SRI VIVEK CHANDRA SEKHAR.S**

**Counsel for the Respondents: SRI T.CHAITANYA KIRAN, AGP, REP. FOR
SRI SWAROOP OORILLA, SPL. GP FOR STATE TAX**

WRIT PETITION NO: 12395 OF 2013

Between:

M/s. Globe Surgicals, 3-6-361/23/1, First Floor, Street No.20, Opp. Oil Seed Colony Park, Himayath Nagar, Hyderabad-500 029 rep. by its Proprietor, B.Mohan Reddy

...PETITIONER

AND

1. The Commercial Tax Officer, Hyderguda Circle, Abids Division, Hyderabad
2. The Deputy Commercial Tax Officer, Gowliguda Circle, Abids Division, Hyderabad
3. The Commissioner of Commercial Taxes, Government of Andhra Pradesh, 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 WRIT OF MANDAMUS or any other appropriate writ, order or direction declaring the order of the Commissioner of Commercial Taxes, Andhra Pradesh dated 09.04.2013 in CCTs Ref. AIII(1)/161/2012 as illegal and vitiated by non-application of mind and further declare the Order of Assessment dated 12.04.2013 is equally illegal, arbitrary and without jurisdiction and accordingly set aside the same.

I.A. NO: 2 OF 2013(WPMP. NO: 15304 OF 2013)

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 suspend the operation of the Order of Assessment dated 12.04.2013, pending disposal of the Writ Petition and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and in the interests of justice.

**Counsel for the Petitioner: SRI A.V.A.SIVA KARTIKEYA, REP. FOR
SRI VIVEK CHANDRA SEKHAR.S**

**Counsel for the Respondents: SRI T.CHAITANYA KIRAN, AGP, REP. FOR
SRI SWAROOP OORILLA, SPL. GP FOR STATE TAX**

The Court made the following: COMMON ORDER

**THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE
SUDDALA CHALAPATHI RAO**

W.P Nos.7458 OF 2015, 9853 & 12395 OF 2013

COMMON ORDER: *(per Hon'ble Sri Justice P.Sam Koshy)*

Heard Mr. A.V.A.Siva Kartikeya, learned counsel representing Mr. S. Vivek Chandra Sekhar, learned counsel for the petitioners and Mr. T.Chaitanya Kiran, learned Assistant Government Pleader representing Mr. Swaroop Oorilla, learned Special Government Pleader for the State Tax for the respondents. Perused the record.

2. The question of law in all these three writ petitions preferred by the assessee being same, we intend to decide them by this common order.

3. The question of law that was put for consideration was whether the product which is stated by the petitioners herein i.e., orthopedic or fracture appliances and artificial joints would fall under Entry 2 of Schedule I of the Andhra Pradesh VAT Act, now the Telangana VAT Act, under the entry "orthopedic or fractures appliances and artificial joints/implants used by handicapped persons".

4. The reliance by the petitioners was on G.O.Ms.No.1615 dated 31.08.2005 which introduced certain specific items which would fall under Schedule I in Annexure 1 of the said notification.

5. During the course of hearing, the learned counsel representing both the parties contended that the same issue recently came up for consideration in W.P.No.20716 of 2008, decided on 25.09.2025 and in paragraphs 15 to 19, it was held as under:

15. So far as reference made by the learned Assistant Government Pleader representing learned Special Government Pleader to Entry 111 in Schedule IV is concerned which again for ready reference is reflected hereinunder:

111. Medical equipments / devises and implants.

16. A plain reading of the aforementioned material clearly indicates that the notification has a special purpose, under which each of the relevant Entries falls. With respect to Entry 2 in Schedule I, a reading of the Entry alongside G.O.Ms.No.1615, dated 31.08.2005, shows that the government intended to exempt the applicability of VAT on products used by orthopedic surgeons as is reflected in the aforementioned G.O.Ms., dated 31.08.2025, for the treatment of handicapped and disabled individuals. It was through this notification G.O.Ms.No.1615, dated 31.08.2005 that the government clarified and limited the scope of exemption under Schedule I under Entry 2 to products reflected in the aforementioned G.O.Ms., dated 31.08.2025.

17. Plain reading of Entry 111 of Schedule IV would reveal that the said Entry was in respect of Medical Equipments, devises and implants which are used for treatment other than the treatment rendered upon an orthopedic patients and where the items mentioned in Entry 2 in Schedule I is used for treatment.

18. It was also brought to the attention of this Bench that the government, through a subsequent notification dated 19.03.2013, rescinded G.O. Ms.No. 1615, dated 31.08.2005. Following this, the petitioner began paying the applicable tax, which further supports their claim that, until the notification dated 19.03.2013 rescinding G.O.Ms.No.1615 came into effect, the products in question traded by the petitioners fell under the exempted category under Section 7 of the Act. This also strengthens the petitioner's case, indicating that until then, Entry 2 of Schedule I and Entry 111 of Schedule IV were concurrently in effect and in force. It is not the case that the insertion of Entry 111 in Schedule IV (effective from 01.07.2006) had in any way, amended, repealed, or nullified Entry 2 of Schedule I or G.O.Ms.No.1615, dated 31.08.2005.

19. For all the aforesaid facts and circumstances of the case, we are inclined to allow the writ petition and hold that the products traded by the petitioner which falls under HSN Code No.9021.10 and 9021.31 which fall under Entry 2 of Schedule I and not under Entry 111 of Schedule IV and to the aforesaid extent, the assessment order, dated 30.08.2008, is not sustainable and the same deserves to be and is accordingly set aside with consequence to follow

6. Accordingly, the learned counsel appearing on either side submits that the issue involved in the instant three writ petitions

squarely stands covered by the aforesaid decision of this very Bench.

7. In view of the same, the present three writ petitions also stands allowed in terms of the order passed by this Bench in W.P.No.20716 of 2008. Interim orders, if any, as a consequence, also stands set aside. There shall be no order as to costs.

Consequently, miscellaneous applications pending if any in this Writ Petition, shall stand closed.

8. The learned counsel appearing for the petitioners submits that since there was an interim order of payment of 12.5% of tax, subject to scrutiny and ascertaining whether there is any adjustment to be made from any outstanding amount payable to the petitioners, if any, refund of payment is made out. Let the amount be refunded to the petitioners forthwith within a period of 60 days.

**That Rule Nisi has made Absolute as above witness
The Hon'ble SRI APARESH KUMAR SINGH, The Chief Justice on this
Thursday, the Sixth Day of November, Two Thousand and Twenty Five.**

//TRUE COPY//

**SD/-A. JAYASREE
ASSISTANT REGISTRAR**

SECTION OFFICER

To,

1. The Commissioner of Commercial Taxes, Government of Telangana, Hyderabad
2. The Commercial Tax Officer (audit), Hyderguda Circle, Abids Division, Hyderabad.
3. The Commercial Tax Officer, Hyderguda Circle, Abids Division, Hyderabad
4. The Commercial Tax Officer, M.J Market Circle, Hyderabad.
5. The Deputy Commercial Tax Officer, Gowliguda Circle, Abids Division, Hyderabad
6. The Secretary, Revenue Department, Government of Telangana, Hyderabad, State of Telangana.
7. One CC to SRI VIVEK CHANDRA SEKHAR.S, Advocate [OPUC]

8. Two CCs to SRI SWAROOP OORILLA, SPL. GP FOR STATE TAX, High Court for the State of Telangana at Hyderabad [OUT]
9. The Spl. Standing Counsel for Commercial Tax Officer Audit.
10. Two CD Copies

1 BSR

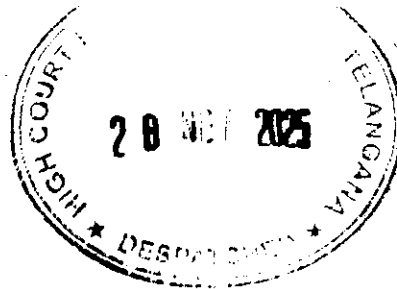
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HIGH COURT

DATED: 06/11/2025



COMMON ORDER

WP.Nos.7458 of 2015, 9853 & 12395 of 2013

**ALLOWING ALL THE WRIT PETITIONS,
WITHOUT COSTS**

(13)
Kpr
18/11/25