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

THURSDAY, THE TENTH DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT JUSTICE RENUKA YARA

WRIT PETITION NOs: 8278, 9005, 9006, 9015 and 9044 of 2009

WRIT PETITION NO: 8278 OF 2009

Between:

M/s. Church Educational Society, G-2, SBI Colony, Bagh Amberpet, Hyderabad-13. Represented by its Secretary, Mr.N.Raja Babu.

...PETITIONER

AND

1. The Deputy Commercial Tax Officer, Vidyanagar Circle, Hyderabad.
2. The Commissioner of Profession Tax, Government of Andhra Pradesh, Hyderabad.
3. The Government of Andhra Pradesh, represented, by its Secretary, Revenue (CT) Department, Secretariat Buildings, 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 an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus—

a) declare Sub-Section (2) of Section 15 of Andhra Pradesh Tax on Profession Trade Callings and Employment Act, 1987 requiring pre deposit of 100% of the disputed tax penalty and interest as a condition precedent for filing appeal as unreasonable, oppressive, onerous, arbitrary and violative of Article 14, 265 and 300A of the Constitution of India, since there is no power conferred on the Appellate Authorities for waiver of such pre-deposit even the levy is without

authority of law and jurisdiction which was there in similar Statutes where pre-deposit of full amount of the disputed tax/penalty is contemplated and

b) consequently declare the impugned order passed by the 1st respondent in levying penalty under Section 6(5) and under Section 12 of Andhra Pradesh Tax on Profession Trade Callings and Employment Act, 1987, for the assessment year 2003-2004 dt. 1.3.2009 as illegal, arbitrary, without authority of law and jurisdiction and barred by time and to pass such other order or orders as the Honble Court may deem fit and proper in the circumstances of the case as otherwise the petitioner will be put to irreparable loss and hardship.

I.A. NO: 1 OF 2009(WPMP. NO: 10826 OF 2009)

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 grant stay of all further proceedings pursuant to the impugned penalty order passed by the 1st respondent dated 01.03.2009 for the assessment year 2003-2004 pending disposal of the writ petition and to pass such other order or orders as the Honble Court may deem fit and proper in the circumstances of the case as otherwise the petitioners will be put to irreparable loss and hardship..

Counsel for the Petitioner: SRI BHASKAR REDDY VEMIREDDY, Sr. COUNSEL

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

WRIT PETITION NO: 9005 OF 2009

Between:

M/s. Ravi Rishi Educational Society, G-2, SBI Colony, Bagh Amberpet, Hyderabad-13, rep. by its Secretary, Smt. Manjusha.

...PETITIONER

AND

1. The Deputy Commercial Tax Officer, Vidyanagar Circle, Hyderabad.
2. The Commissioner of Profession Tax, Government of Andhra Pradesh, Hyderabad.
3. The Government of Andhra Pradesh, rep. by its Secretary, Revenue (CT) Department, Secretariat Buildings, 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 an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus –

a) declare Sub-Section (2) of Section 15 of Andhra Pradesh Tax on Profession Trade Callings and Employment Act, 1987 requiring pre deposit of 100% of the disputed tax penalty and interest as a condition precedent for filing appeal as unreasonable, oppressive, onerous, arbitrary and violative of Article 14, 265 and 300A of the Constitution of India, since there is no power conferred on the Appellate Authorities for waiver of such pre-deposit even the levy is without authority of law and jurisdiction which was there in similar statutes where pre-deposit of full amount of the disputed tax / penalty is contemplated and

b) consequently declare the impugned orders passed by the 1st respondent in levying penalty under Section 6(5) and under Section 12 of Andhra Pradesh Tax on Profession Trade Callings and Employment Act, 1987 for the assessment years 2004-2005, 2005-2006 and 2006-2007, dt. 1.3.2009 as illegal, arbitrary, without authority of law and jurisdiction and set aside the same.

I.A. NO: 1 OF 2009(WPMP. NO: 11781 OF 2009)

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 grant stay of all further proceedings pursuant to the impugned penalty order passed by the 1st respondent dated 1.3.2009 for the assessment years 2004-2005, 2005-2006 and 2006-2007, pending disposal of the writ petition and to pass such other order or orders as the Honble Court may deem fit and proper in the circumstances of the case as otherwise the petitioners will be put to irreparable loss and hardship.

Counsel for the Petitioner: SRI BHASKAR REDDY VEMIREDDY, Sr. COUNSEL

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

WRIT PETITION NO: 9006 OF 2009

Between:

M/s. R.R.M. Educational Society, G-2, SBI Colony, Bagh Amberpet, Hyderabad-13 represented by its Secretary Mr.N.Raja Babu.

...PETITIONER

AND

1. The Deputy Commercial Tax Officer, Vidyanagar Circle, Hyderabad.
2. The Commissioner of Profession Tax, Government of, Andhra Pradesh, Hyderabad.
3. The Government of Andhra Pradesh, represented by its Secretary, Revenue (CT) Department, Secretariat Buildings, 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 an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus—

a) declare Sub-Section (2) of Section 15 of Andhra Pradesh Tax on Profession Trade Callings and Employment Act, 1987 requiring pre deposit of 100% of the disputed tax penalty and interest as a condition precedent for filing appeal as unreasonable, oppressive, onerous, arbitrary and violative of Article 14, 265 and 300A of the Constitution of India, since there is no power conferred on the Appellate Authorities for waiver of such pre-deposit even the levy is without authority of law and jurisdiction which was there in similar Statutes where pre-deposit of full amount of the disputed tax/penalty is contemplated and

b) consequently declare the impugned orders passed by the 1st respondent in levying penalty under Section 6(5) and under Section 12 of Andhra Pradesh Tax on Profession Trade Callings and Employment Act, 1987, for the assessment years 2004-2005 and 2005-2006 dt. 1.3.2009 as illegal, arbitrary, without authority of law and jurisdiction and barred by time and set aside the same.

I.A. NO: 1 OF 2009(WPMP. NO: 11782 OF 2009)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed n support of the petition, the High Court may be pleased to

grant stay of all further proceedings pursuant to the impugned penalty orders passed by the 1st respondent dated 01.03.2009 for the assessment year 2004-2005 and 2005-2006 pending disposal of the writ petition and to pass such other order or orders as the Honble Court may deem fit and proper in the circumstances of the case as otherwise the petitioners will be put to irreparable loss and hardship.

Counsel for the Petitioner: SRI BHASKAR REDDY VEMIREDDY, Sr. COUNSEL

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

WRIT PETITION NO: 9015 OF 2009

Between:

M/s. Karshak Vidya Parishad, G-2, SBI Colony, Bagh Amberpet, Hyderabad-13 Represented by its Secretary, Mr.N.Raja Babu.

...PETITIONER

AND

1. The Deputy Commercial Tax Officer, Vidyanagar Circle, Hyderabad.
2. The Commissioner of Profession Tax,, Government of Andhra Pradesh, Hyderabad.
3. The Government of Andhra Pradesh, represented, by its Secretary, Revenue (CT) Department, Secretariat Buildings, 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 an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus—

a) declare Sub-Section (2) of Section 15 of Andhra Pradesh Tax on Profession Trade Callings and Employment Act, 1987 requiring pre deposit of 100% of the disputed tax penalty and interest as a condition precedent for filing appeal as unreasonable, oppressive, onerous, arbitrary and violative of Article 14, 265 and 300A of the Constitution of India, since there is no power conferred on the Appellate Authorities for waiver of such pre-deposit even the levy is without

authority of law anc jurisdiction which was there in similar Statutes where pre-deposit of full amount of the disputed tax/penalty is contemplated and

b) consequently declare the impugned order passed by the 1st respondent in levying penalty under Section 6(5) and under Section 12 of Andhra Pradesh Tax on Profession Trade Callings and Employment Act, 1987, for the assessment year 2004-2005 2005-2006 and 2006-2007 dt. 1.3.2009 as illegal, arbitrary, without authority of law and jurisdiction and barred by time and to pass such other order or orders as the Honble Court may deem fit and proper in the circumstances of the case as otherwise the petitioner will be put to irreparable loss and hardship.

I.A. NO: 1 OF 2009(WPMP. NO: 11791 OF 2009)

Petition unde 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 grant stay of all further proceedings pursuant to the impugned penalty order passed by the 1st respondent dt. 1-3-2009 for the assessment years 2004-2005 2005-2006 and 2006-2007 pending disposal of the writ petition and to pass such other order or orders as the Honble Court may deem fit and proper in the circumstances of the case as otherwise the petitioners will be put to irreparable loss and hardship.

Counsel for the Petitioner: SRI BHASKAR REDDY VEMIREDDY, Sr. COUNSEL

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

WRIT PETITION NO: 9044 OF 2009

Between:

M/s. R.R.M. Educational Society, G-2, SBI Colony, Bagh Amberpet, Hyderabad-13 Represented by its Secretary, Mr.N.Raja Babu.

...PETITIONER

AND

1. The Deputy Commercial Tax Officer, Vidyanagar Circle, Hyderabad.
2. The Commissioner of Profession Tax, Government of Andhra Pradesh, Hyderabad.

3. The Government of Andhra Pradesh, represented, by its Secretary, Revenue (CT) Department, Secretariat Buildings, 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 an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus—

a) declare Sub-Section (2) of Section 15 of Andhra Pradesh Tax on Profession Trade Callings and Employment Act, 1987 requiring pre deposit of 100% of the disputed tax penalty and interest as a condition precedent for filing appeal as unreasonable, oppressive, onerous, arbitrary and violative of Article 14, 265 and 300A of the Constitution of India, since there is no power conferred on the Appellate Authorities for waiver of such pre-deposit even the levy is without authority of law and jurisdiction which was there in similar Statutes where pre-deposit of full amount of the disputed tax/penalty is contemplated and

b) consequently declare the impugned order passed by the 1st respondent in levying penalty under Section 6(5) and under Section 12 of Andhra Pradesh Tax on Profession Trade Callings and Employment Act, 1987, for the assessment year 2006-2007 dt. 1.3.2009 as illegal, arbitrary, without authority of law and jurisdiction and set aside the same and pass such other order or orders as the Honble Court may deem fit and proper in the circumstances of the case as otherwise the petitioner will be put to irreparable loss and hardship.

I.A. NO: 1 OF 2009(WPMP. NO: 11831 OF 2009)

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 grant stay of all further proceedings pursuant to the impugned penalty order passed by the 1st respondent dt. 1-3-2009 for the assessment years 2006-2007 pending disposal of the writ petition and to pass such other order or orders as the Honble Court may deem fit and proper in the circumstances of the case as otherwise the petitioners will be put to irreparable loss and hardship.

Counsel for the Petitioner: SRI BHASKAR REDDY VEMIREDDY, Sr. COUNSEL

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 HON'BLE THE ACTING CHIEF JUSTICE SUJOY PAUL

AND

THE HON'BLE SMT. JUSTICE RENUKA YARA

WRIT PEITITION Nos.8278, 9005, 9006, 9015 and 9044 of 2009

COMMON ORDER: *(Per the Hon'ble the Acting Chief Justice Sujoy Paul)*

Sri Bhaskar Reddy Vemireddy, learned Senior Counsel for the petitioners and Sri T. Chaitanya Kiran, learned Assistant Government Pleader representing Sri Swaroop Oorilla, learned Special Government Pleader for State Tax appearing for the respondents.

2. At the outset, learned counsel for the parties fairly submit that the point involved in these writ petitions is covered by the order passed by a Coordinate Bench of this Court in W.P.No.22465 of 2008 decided on 03.01.2023. It is agreed that in view of the said order, the impugned orders in these writ petitions may be set aside by reserving liberty to the proper officer to re-do the assessment in accordance with law.

3. This Court in W.P.No.22465 of 2008, dated 03.01.2023, at paragraph No. 11, held as under:-

> "11. Accordingly, the Writ Petition is allowed; the impugned orders dated 21.05.2007 for the assessment years 2003-2004 to 2006-2007 are set aside; the matter is remitted back to the 1st respondent authority to re-do the assessment by passing fresh assessment orders; and the petitioner is directed to file an additional affidavit giving the required particulars to show their tax liability. However, having regard to the fact that the demand of Professional Tax relates to a period 2003-2004 to 2006-2007, the petitioner is directed to file additional affidavit within a period of three weeks from the date of receipt of a copy of this order and the 1st respondent on receipt of the said additional affidavit is directed to re-do the assessment by passing fresh assessment orders within a further period of four weeks therefrom, after granting an opportunity of personal hearing to the petitioner. No costs."

4. In view of the aforesaid order and as agreed, the impugned penalty orders are set aside by reserving the liberty as indicated above.

5. Accordingly, the writ petitions are **disposed of**. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

SD/-MOHD. ISMAIL
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Deputy Commercial Tax Officer, Vidyanagar Circle, Hyderabad.
2. The Commissioner of Profession Tax, Government of Telangana, Hyderabad.
3. The Secretary, Government of Telangana, Revenue (CT) Department, Secretariat Buildings, Hyderabad.
4. One CC to SRI BHASKAR REDDY VEMIREDDY, Advocate [OPUC]
5. Two CCs to SRI SWAROOP OORILLA, SPL. GP FOR STATE TAX, High Court for the State of Telangana at Hyderabad [OUT]
6. Two CD Copies

BSR
BS

HIGH COURT

DATED: 10/04/2025

COMMON ORDER

WP.Nos. 8278, 9005, 9006, 9015 and 9044 of 2009

DISPOSING OF ALL THE WRIT PETITIONS, WITHOUT COSTS

28/4/2025