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

WEDNESDAY,THE TWENTY SEVENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE SUJOY PAUL
AND
THE HONOURABLE SRI JUSTICE K. SARATH

WRIT PETITION NO: 294 OF 2020

Between:

M/s. Thermax Instrumentation Limited, Hitech City, Madhapur, Hyderabad Represented by Harish N. Tikotkar, Chief Financial Officer.

...PETITIONER

AND

1. The Commercial Tax Officer, Srinagar Colony Circle, Hyderabad, Telangana.
2. The Commercial Tax Officer, Somajiguda Circle, Hyderabad, Telangana.
3. The Joint Commissioner (State Tax), Punjagutta Division, Hyderabad, Telangana.
4. The Assistant Commissioner (State Tax), Somajiguda Circle, Hyderabad, Telangana.
5. The State Tax Officer, Khairatabad Circle, Hyderabad, Telangana.
6. The State of Telangana, Through Principal Secretary to Government, Telangana Secretariat, Revenue Department (ST), Hyderabad, Telangana.
7. The Assistant Commissioner (ST), Hydernagar - II Circle, Hyderabad
8. The Principal Secretary, Department of Finance Government of Telangana B.R.Ambedkar Secretariat

   Respondent Nos. 7 and 8 are impleaded as per Court Order dated 24.06.2024 Vide IA No.1 of 2024

...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 particularly one in the nature of a WRIT OF MANDAMUS a) directing the Respondents to process and grant the lawful VAT refund to the Petitioner expeditiously in accordance with Section 38 (1) and Section 39 (I) of the Telangana VAT Act, in whatever short period as this Hon'ble Court may deem fit b) directing the Respondent to pay interest at the rate of 1.25

percent per month as per Section 38 (6) and 39 (2) of the Telangana VAT Act read with Rule 35 (8) (c) and Rule 35 (9) (e) of the Telangana VAT Rules towards the substantial period of delay in making payment of the refund granted c) to award costs of and incidental to this application be paid by the Respondents

Counsel for the Petitioner: SRI NARENDRA DAVE FOR SRI. LAKSHMI KUMARAN SRIDHARAN

Counsel for the Respondent Nos.1 to 7: SRI T. CHAITANYA KIRAN AGP FOR COMMERCIAL TAX

Counsel for the Respondent NO.8: SRI RAM SHANKAR SHARMA AGP FOR SRI MOHD. HUSSAIN GP FOR FINANCE AND PLANNING

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE SUJOY PAUL
AND
THE HONOURABLE SRI JUSTICE K. SARATH

WRIT PETITION No.294 of 2020

ORDER: *(Per Hon'ble Justice Sujoy Paul)*

Sri Narendra Dave, learned counsel representing Sri Lakshmi Kumaran and Sridharan, learned counsel for the petitioner. Sri T. Chaitanya Kiran, learned Assistant Government Pleader representing Sri Swaroop Oorilla, learned, Special Government Pleader for State Tax, for respondent Nos.1 to 8. Sri Ram Shankar Sharma, learned Assistant Government Pleader representing Sri Mohd. Hussain, learned Government Pleader for Finance and Planning, for respondent No.8. With consent finally heard.

2. During the course of hearing, a report dated 12.06.2024 of the Assistant Commissioner (ST), Hydernagar-II Circle, was handed over to the Bench by the learned Assistant Government Pleader for State Tax, which reads thus:

> "It is humbly submitted that, the refund of Rs.1,54,63,027/- and Rs.43,40,540/- (total of Rs.1,98,03,567/-) in the case of M/s. Thermax Instrumentation Limited was processed and sent the same to the Treasury Department for realization *vide* Ref.No.BII(2)/147/824 Dt:08-05-2024 and BII(2)/205/2024, Dt:06-06-2024 respectively."

3. Learned counsel for the petitioner submits that so far principle amount directed to be refunded is concerned, the petitioner has no grievance. However, this amount was withheld by the Department for no fault on the part of the petitioner. The reason for not refunding with quite promptitude is solely attributable to the Department. Thus, the Government must take decision for granting statutory interest under Section 38 (6) and 39 (2) of the Telangana Value Added Tax Act, 2005, read with Rules 35 (8) (c) and 35 (9) (e) of the Telangana Value Added Tax Rules, 2005. It is prayed that the time limit may be fixed for undertaking the aforesaid exercise.

4. Learned Assistant Government Pleaders appearing for State Tax and Finance & Planning have not disputed the report extracted above. Thus, there exists no dispute between the parties for refund of Rs.1,98,03,567/-. The only point is regarding the grant of interest. Since the respondents are unable to show that there was any reason attributable to the petitioner in deciding to refund the amount, the respondents are under a statutory obligation to decide the question of interest. Thus, **Respondent No.7, i.e., The Assistant Commissioner (ST), Hydernagar-II**

Circle, Hyderabad is directed to take decision regarding grant of interest in the light of governing statutory provisions within 45 days from the date of production of copy of this order and pass an appropriate order regarding grant of interest on refund amount of Rs.1,98,03,567/-. Such decision be forthwith communicated to the Treasury Department and the Treasury Department shall refund the original amount along with interest (if any) to the petitioner within 60 days therefrom.

5. With the above, the Writ Petition is disposed of. There shall be no order as to costs. Interlocutory applications, if any pending, shall stand closed.

SD/-K. SREE RAMA MURTHY
ASSISTANT REGISTRAR

NOTE:-That the direction issued in para No.4 of the order dated 27.11.2024 in W.P.No.294 of 2020 is wrongly issued to "Respondent No.1, i.e., The Commercial Tax Officer" instead of "Respondent No.7, i.e., The Assistant Commissioner (ST), Hydernagar-II Circle, Hyderabad" and the same is modified as per the orders of the Hon'ble Court dated 17.02.2025 in I.A.No.1 of 2025.

This amended order shall substitute the earlier order which has already been dispatched on 20/12/2024.

SD/-K. SREE RAMA MURTHY
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Commercial Tax Officer, Srinagar Colony Circle, Hyderabad, Telangana.
2. The Commercial Tax Officer, Somajiguda Circle, Hyderabad, Telangana.

3. The Joint Commissioner (State Tax), Punjagutta Division, Hyderabad, Telangana.

4. The Assistant Commissioner (State Tax), Somajiguda Circle, Hyderabad, Telangana.

5. The State Tax Officer, Khairatabad Circle, Hyderabad, Telangana.

6. The Principal Secretary to Government, Telangana Secretariat, Revenue Department (ST), Hyderabad, Telangana.

7. The Assistant Commissioner (ST), Hydernagar - II Circle, Hyderabad

8. The Principal Secretary, Department of Finance Government of Telangana B.R.Ambedkar Secretariat

9. One CC to SRI. LAKSHMI KUMARAN SRIDHARAN Advocate [OPUC]

10. Two CCs to GP FOR COMMERCIAL TAX,High Court for the State of Telangana. [OUT]

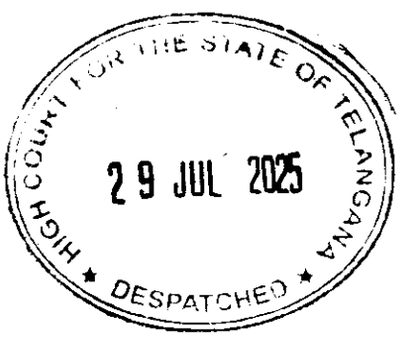
11. Two CCs to GP FOR FINANCE AND PLANNING, High Court for the State of Telangana at Hyderabad. [OUT]

12. Two CD Copies

KKS
BS

HIGH COURT

DATED: 27/11/2024
17/02/2025



AMENDED ORDER

WP.No.294 of 2020

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

(16)

Kpk
17/7/25