

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

THURSDAY, THE THIRTEENTH DAY OF AUGUST  
TWO THOUSAND AND TWENTY

**PRESENT**

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO  
AND  
THE HONOURABLE SRI JUSTICE T. AMARNATH GOUD**

**WRIT PETITION No. 11843 OF 2020**

**Between:**

M/s CSK Realtors Limited, 5-9-30/1/17A, Ground Floor, Palace Colony, Lake Hill Road, Basheerbagh, Hyderabad Represented by its Managing Director Sri Suresh Kumar Agarwal

**...PETITIONER**

**AND**

1. Assistant Commissioner (ST), Basheerbagh - I Circle, 1st Floor, Old Kakatiya Hotel Building, Nampally, Hyderabad- 500 001.
2. State of Telangana, represented by its Principal Secretary, Revenue Department, Telangana Secretariat, 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 a Writ of Mandamus setting aside the impugned Assessment Order passed by the first respondent dt.13/03/2020 in FORM GST DRC - 07 passed for the tax period 2017-18 and 2018-19 (July, 2017 to March, 2019) as illegal, arbitrary, unsustainable in law and is vitiated against the Principles of Natural Justice as the same is passed without granting personal hearing and

**IA NO: 1 OF 2020**

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 collection of the disputed tax of disputed CGST plus SGST at 9% totaling to Rs.3,27,36,878/- arising in pursuance of the Assessment Order passed by the first respondent dt.13/03/2020 in FORM GST DRC -07 for the tax period 2017-18 & 2018-19 (July, 2017 to March, 2019) pending disposal of the above writ petition.

**Counsel for the Petitioner: SRI S. KRISHNA MURTHY**

**Counsel for the Respondent No.1: SRI J. ANIL KUMAR,**

**SPECIAL STANDING COUNSEL FOR COMMERCIAL TAXES**

**Counsel for the Respondent No.2: GP FOR REVENUE**

**The Court made the following: ORDER**

**HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**AND**

**HONOURABLE SRI JUSTICE T.AMARNATH GOUD**

**WP.No.11843 of 2020**

**ORDER:** (Per Hon'ble Sri Justice M.S. Ramachandra Rao)

1. Petitioner is a Private Limited Company incorporated under the Companies Act, 1956.
2. It is engaged in the business of construction and sale of flats and villas and is also an assessee on the rolls of the 1<sup>st</sup> respondent under the Goods and Services Tax Act, 2017 (for short 'the Act')
3. The 1<sup>st</sup> respondent issued notice intimating the discrepancies in the returns after scrutiny in Form GST ASMT-10, dt.17.12.2019 to the petitioner for the tax period 2017-18 to 2018-19 (from July, 2017 to March, 2019). In the said notice, he proposed to levy tax of Rs.3,27,36,879/-.
4. Detailed objections were filed by the petitioner through its letter dt.24.12.2019 before the 1<sup>st</sup> respondent.
5. Thereupon, the 1<sup>st</sup> respondent got issued show cause notice under Section 73 of the Act on 31.01.2020 in Form GST DRC-01 for the tax periods July, 2017 to

March, 2018 and April, 2018 to March, 2019 proposing to levy CGST + SGST totaling to Rs.3,27,36,878/-.

6. Petitioner again filed detailed objections through its letter dt.18.02.2020 and also sought for a personal hearing before the 1<sup>st</sup> respondent.

7. But the 1<sup>st</sup> respondent, after receiving the said objections of the petitioner on 19.02.2020, did not afford any personal hearing to the petitioner, and passed the impugned assessment order dt.13.03.2020 under Section 73 of the Act, and summary of the order in form GST DRC 07 dt.13.03.2020 for the above tax periods demanding the above amount from the petitioner.

8. Apart from contentions on merits, petitioner contends that when there is a specific request from the petitioner to provide personal hearing, it is the duty of the 1<sup>st</sup> respondent to provide such a personal hearing.

9. Reliance is placed on the judgments of this Court in **M/s Manjunatha Traders, New Firm, Proddatur and another v. Commercial Tax Officer-II, Proddatur & Others<sup>1</sup>** and **S.Lalaiah & Co. v. Deputy Commissioner (CT), Sarrornagar Division Hyderabad & another<sup>2</sup>**, and it is contended that the very purpose of personal hearing

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<sup>1</sup> 2018(66) APSTJ 147

<sup>2</sup> 2007(45) APSTJ 116



is to enable the assessing officer to get enlightened or to enlighten the assessee about the nature of the claim made by them, and once the assessee seeks personal hearing, the denial of such opportunity would vitiate the order passed.

10. Sri J.Anil Kumar, Special Counsel for Commercial Taxes appearing for respondents does not dispute the above legal principles.

11. In view of the said legal position, we are of the opinion that the 1<sup>st</sup> respondent ought to have provided a personal hearing to the petitioner, since the petitioner requested for it specifically in its objections dt.18.02.2020 filed by it to the show cause notice issued on 31.01.2020 to it by the 1<sup>st</sup> respondent, and that failure of the 1<sup>st</sup> respondent to do so is a violation of principles of natural justice warranting setting aside of the impugned order.

12. Accordingly, the Writ Petition is allowed; the impugned assessment order passed by the 1<sup>st</sup> respondent on 13.03.2020 in Form GST DRC-07 for the tax periods 2017-18 and 2018-19 is set aside; the matter is remitted back to the 1<sup>st</sup> respondent for fresh consideration; the 1<sup>st</sup> respondent shall provide a personal hearing to the

petitioner; and then the 1<sup>st</sup> respondent shall pass a reasoned order in accordance with and communicate it to the petitioner. No order as to costs.

13. Consequently, miscellaneous petitions, pending if any, shall stand closed.

//TRUE COPY//

SD/-K.MURALI  
ASSISTANT REGISTRAR

  
SECTION OFFICER

To,

1. The Assistant Commissioner (ST), Basheerbagh - I Circle, 1st Floor, Old Kakatiya Hotel Building, Nampally, Hyderabad- 500 001.
2. The Principal Secretary, Revenue Department, State of Telangana, Telangana Secretariat, Hyderabad.
3. One CC to Sri. S. Krishna Murthy, Advocate [OPUC]
4. One CC to Sri. J. Anil Kumar, Special Standing Counsel for Commercial Taxes [OPUC]
5. Two CCs to GP for Revenue, High Court for the State of Telangana at Hyderabad. [OUT]
6. Two CD Copies

Prk 

**HIGH COURT**

**DATED:13/08/2020**



**ORDER**

**WP.No.11843 of 2020**

**Allowing the WP.  
without costs.**

ATM (8)  
20/8/2020