

[3481]

IN THE HIGH COURT OF ANDHRA PRADESH: AT AMARAVATI

(Special Original Jurisdiction)

TUESDAY, THE SIXTEENTH DAY OF JULY

TWO THOUSAND AND TWENTY FOUR

:PRESENT:

THE HONOURABLE SRI JUSTICE R.RAGHUNANDAN RAO

AND

THE HONOURABLE SRI JUSTICE HARINATH N.

WRIT PETITION NO: 4725 OF 2023



Between:

Mytrah Energy India Private Limited, represented through its authorized representative, Shri Krishna Rachuri S/o. Prabhakar Rachuri Aged 43 years, Having its Registered Office at 8001, Q-City, Nanakramguda, Gachibowli, Hyderabad, Telangana - 500032 and Principal Place of Business at Sy No. 292/2, Jutur Village, Pattikonda Mandal, Kurnool, Andhra Pradesh - 518380.

Petitioner

AND

1. Union of India, Through Secretary, Ministry of Finance, Department of Revenue, New Delhi - 110001.
2. Deputy Commissioner (State Tax), Offices of the Joint Commissioner (State Tax), Kurnool Survey No. 7/B, Near Indus Montessori School, Gooty Road, Kurnool, Andhra Pradesh - 518002.
3. State of Andhra Pradesh, Through its Principal Secretary Revenue(CT-II) Department, Secretariat, Velagapudi, Amaravati, District - Guntur, Andhra Pradesh.
4. Goods and Services Tax Council, 5th Floor, Tower II, Jeevan Bharti Building, Janpath Road, Connaught Place, New Delhi-110 001.
5. The Central Board of Indirect Taxes and Customs, North Block, Department of Revenue, Ministry of Finance, Government of India, New Delhi - 110001.

Respondents

Petition under Article 226 of the Constitution of India is filed 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.

- i. A writ of Mandamus or any other order or direction to declare the impugned Explanation inserted vide Notification No. 24/2018 - Central Tax (Rate) dated 31.12.2018 appended to Sl. No. 234 of Notification No. 1/2017 - Central Tax (Rate) dated 28.06.2017, and the corresponding notifications issued under the APGST Act and IGST Act, as being manifestly arbitrary and violative of Article 14, Article 19(1)(g) and Article 265 of Constitution of India, 1950.
- ii. A writ of Mandamus or any other order or direction to declare the impugned Services Explanation inserted vide Notification No. 27/2018-Central Tax (Rate) dated 31.12.2018 appended to Sl. No. 38 of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, and the corresponding notifications issued under the APGST Act and IGST Act, as being manifestly arbitrary and violative of Article 14, Article 19(1)(g) and Article 265 of Constitution of India, 1950.
- iii. A writ of Mandamus or any other order or direction to declare Section 16 (2) (c) of the CGST Act and the corresponding Section 16(2) (c) of the APGST Act ,as being arbitrary and violative of Article 14 and Article 19(1)(g) of Constitution of India, 1950 since the same imposes an unreasonable condition which is impossible to be performed by the Petitioner.
- iv. A writ of Mandamus or any other order or direction to declare the impugned Circular as being arbitrary and violative of Article 14 and Article 19(1)(g) of Constitution of India, 1950 since the same seeks to create substantive disabilities on a retrospective basis not contemplated under the CGST Act.

- v. In the alternative to prayer clause (i) supra., a writ of Mandamus or any other order or direction reading down the impugned Explanation inserted vide Notification No. Notification No. 24/2018 - Central Tax (Rate) dated 31.12.2018 appended to Sl. No. 234 of Notification No. 1/2017 - Central Tax (Rate) dated 28.06.2017, and the corresponding notifications issued under the APGST Act and IGST Act, as being not mandatory and to that extent allowing taxpayer to compute the value of supplies on actual basis.
- vi. In the Alternative to prayer clause (ii) supra., a writ of Mandamus or any other order or direction reading down the impugned Services Explanation inserted vide Notification No. 27/2018-Central Tax (Rate) dated 31.12.2018 appended to Sl. No. 38 of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, and the corresponding notifications issued under the APGST Act and IGST Act, as being not mandatory and to that extent allowing taxpayer to compute the value of supplies on actual basis.
- vii. . A writ of Mandamus or any other order or direction to quash and set aside the impugned notice dated 19.12.2022 issued to the Petitioner being and quash the same as illegal, arbitrary, without jurisdiction and unconstitutional.
- viii. Costs of the petition.
- ix. Any other order which this Hon'ble Court may deem fit in the interest of justice, equity and good conscience.

IA NO: 1 OF 2023

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to grant interim relief in the form of a direction to the Respondent No. 2 refrain from adjudication of the impugned notice dated 19.12.2022 as also from initiating any precipitative action pursuant to the

impugned notice dated 19.12.2022, pending disposal of WP 4725 of 2023, on the file of the High Court.

IA NO: 1 OF 2024

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to extend interim orders dated 15 March 2023 in W.P No. 4725 of 2023, which was further extended by Order dated 04 October 2023 and list the W.P No. 4725 of 2023 for final hearing expeditiously, pending disposal of WP 4725 of 2023, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court, dated 03.05.2024 & 05.07.2024 made herein and upon hearing the arguments of SRI.SAI SUNDEEP MANCHIKALAPUDI Advocate for the Petitioner, Sri.Y.V.ANIL KUMAR (Central Government Counsel) for Respondent No.1 GP for Commercial Tax for Respondent Nos.2 to 4 and Sri.Suresh Kumar Routhu, Senior Standing Counsel for Respondent No.5, the Court made the following.

ORDER:

“List this matter before a Bench of which one of us (Justice Harinath N.) is not a Member.

Interim order granted earlier stands extended till the next date of hearing .”

//TRUE COPY//

SD/- A. VIJAYA BABU
ASSISTANT REGISTRAR

SECTION OFFICER
For ,

To,

1. One CC to SRI.SAI SUNDEEP MANCHIKALAPUDI Advocate [OPUC]
2. One CC to SRI.Y.V.ANIL KUMAR (Central Government Counsel)
[OPUC]
3. One CC to Sri.Suresh Kumar Routhu, Senior Standing Counsel (OPUC)
4. Two CCs to GP for Commercial Tax, High Court of A.P.(OUT)
5. The Section Officer, Writ Posting, High Court of A.P.
6. One spare copy

SRL

HIGH COURT

RRR,J & HN,J

DATED:16/07/2024

ORDER

WP.No.4725 of 2023

EXTENSION OF INTERIM DIRECTION

