APHC010071522023

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3481]**
(Special Original Jurisdiction)

FRIDAY ,THE THIRD DAY OF MAY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

WRIT PETITION NO: 4725/2023

Between:

Mytrah Energy India Private Limited **...PETITIONER**

AND

Union Of India and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. SAI SUNDEEP MANCHIKALAPUDI

Counsel for the Respondent(S):

1. Y V ANIL KUMAR (Central Government Counsel)
2. GP FOR COMMERCIAL TAX
3. SURESH KUMAR ROUTHU (SR SC FOR CBIC)
4. SURESH KUMAR ROUTHU (SR SC FOR CBIC)

The Court made the following:

I.A.No.1 of 2024 is an application for extension of the interim order dated 15.03.2023 passed in the present writ petition.

2. The interim order dated 15.03.2023 reads as under:-

> "Print the name of Sri Suresh Kumar Rout, senior counsel for respondents No.4 & 5.
>
> Learned Government Pleader seeks time for filing counter. Let the needful be done.
>
> List the matter on 31.03.2023 for counters.
>
> In the meanwhile, since the matter is only at the stage of show cause notice issued by 2nd respondent, the petitioner is directed to submit its reply/objections on or before 31.03.2023. Till such date, the 2nd respondent shall not take any coercive action against the petitioner pursuant to the show cause notice."

3. The writ petition is filed challenging the show cause notice as also the Notification No.1/2017 – Central Tax (Rate), dated 28.06.2017 and Notification No.11/2017 – Central Tax (Rate), dated 28.06.2017. It is submitted that the show cause notice is issued pursuant to those notifications which notifications are ultra vires to the provisions of Section 8 of the Central Goods and Services Tax Act, 2017 (in short, CGST Act). The petitioner has submitted the reply/objection pursuant to the impugned show cause notice. It is submitted that the objections were submitted within time as directed under interim order, by 31.03.2023. The interim order was extended on 31.08.2023 fixing the matter for final hearing on 04.10.2023. However, the matter could not be listed on 04.10.2023. Consequently, the petitioner has filed the application for extension of the interim order.

4. Learned counsel for the petitioner has placed reliance in the case of the case of ***Naveti Mahalakshmi & Ors. vs. The State of Andhra Pradesh & Ors.,*** to submit that once the matter was not listed on the date fixed, there was no question of extension of the interim order as the same shall be taken as continued till listing of the case. He submits that the respondents are proceeding further pursuant to the notice.

5. As per the report of the Registrar (Judicial) submitted pursuant to our order dated 29.04.2024, the matter could not be listed on the date fixed.

6. Learned Government Pleader prays for further time to file the counter affidavit.

7. List on 05.07.2024.

8. By that time, the counter affidavit and the reply affidavit, if any, by the petitioner, shall positively be filed.

9. The matter will be listed for hearing.

10. Considering the submissions advanced and that the petitioner has filed the objections to the show cause notice pursuant to the interim order, we provide as an interim measure that the respondent No.2, Deputy Commissioner (State Tax) before which the matter is pending shall pass final orders in accordance with law with due opportunity of hearing to the petitioner and shall file copy of such order with counter affidavit.

11. If the order so passed is against the petitioner, no coercive steps will be taken pursuant thereto till next listing.

RNT,J

KM,J

Scs