APHC010117162025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3529]**
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION Nos: 6276 of 2025 and 21152 of 2024

Between:

1. M/S. SAI DHARA PETROLEUMS, REP BY PROPRIETOR SMT. P. ANURADHA W/O K. MALLIKARJUNA, AGED 54 YEARS, OCC- BUSINESS, VALLUR, SURAREDDYPALEM, PRAKASAM DISTRIC

...PETITIONER

AND

1. THE COMMISSIONER, COMMERCIAL TAX DEPARTMENT. GOVERNMENT OF ANDHRA PRADESH, AMARAVATI.
2. THE JOINT COMMISSIONER, COMMERCIAL TAX DEPARTMENT. GOVERNMENT OF ANDHRA PRADESH, SPSR NELLORE.
3. THE COMMERCIAL TAX OFFICER, ONGOLE - II CIRCLE, ONGOLE, ANDHRA PRADESH.
4. THE MANAGER, STATE BANK OF INDIA, S. M. E, BRANCH, ONGOLE.

...RESPONDENT(S):

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 more particularly writ of certioari by calling for the records and to set a side the Proceedings of the Respondent No. 3 passed under section 53 of VAT Act dated 10-09-2024 in FORM VAT 203 A vide DIN3710092485011 by fixing the 100percent penalty of Rs. 1,24,04,400/- on the petitioner basing on the assessment order vide DIN. 3731072456996 dated 31-7-2024 under the AP VAT Act, 2005 which was passed without taking into consideration of material available on record and also error apparent on the face of the order prima facie to fix the total tax of Rs. 1,24,04,400/- on the petitioner, which is abnormal and to set aside the same with the direction to Respondent No. 3 to pass fresh order by receiving explanation from the petitioner by setting aside both the penalty order dated 10- 09-2024 and assessment order dated 31-07-2024 and pass

IA NO: 1 OF 2025

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 may be pleased to suspend the operation of Proceedings of the Respondent No. 3 passed under section 53 of VAT Act dated 10-09-2024 in FORM VAT 203 A vide DIN3710092485011 by fixing the 100% penalty of Rs. 1,24,04,400/- on the petitioner and by releasing the attachment notice dated 31-12-2024 vide DIN3731122421407 SBI bank account number 32699604158, SME branch, Ongole of the petitioner lying with Respondent no. 4 pending disposal of the above writ petition and pass

Counsel for the Petitioner:

1. D KASI RAO

Counsel for the Respondent(S):

1. GP FOR COMMERCIAL TAX

The Court made the following:

The Court made the following Common Order:
(per Hon'ble Sri Justice R. Raghunandan Rao)

The petitioner operates retail outlets for petroleum products. The respondent No.3, after audit of the accounts of the petitioner and had initiated assessment proceedings and completed the assessment proceedings, by an order, dated 31.07.2024. Thereafter, the respondent No.3 also initiated proceedings for levy of penalty which has not yet culminated in the order of penalty.

2. The petitioner being aggrieved by the impugned order dated 31.07.2024, and the initiation of the penalty proceedings dated 10.09.2024, has approached this Court by of this Writ Petition. As both these Writ Petitions are connected and have been filed on the same set of facts, they are being disposed of by way of this Common order.

3. The petitioner had initially raised various grounds on the merits of the cases. Subsequently, the petitioner has contended that the order of assessment is without jurisdiction in as much as the respondent No.3 was not authorized either to conduct assessment or audit.

4. The learned Government Pleader for Commercial Taxes had not produced the record before us to demonstrate that the respondent No.3 had been authorized, for conduct of audit as well as conduct of assessment.

5. Sri Narendra Chetty, learned counsel appearing for the petitioner, would contend that the authorization proceedings, in relation to assessment, do not contain a unique number which was generated in the automatic system and contains only a manual number. The learned counsel would contend that a Division Bench of erstwhile High Court of Andhra Pradesh in the case of " ***Tulasi Surgicals V. Commercial Tax Officer, Kothapet Circle, Guntur and ors[1]"*** held as follows:

> *"The said authorization does not contain the unique number, which is held to be mandatory by the circulars dated August 27, 2012 and November 5, 2012. The authorization, which has been produced before us, is a manually generated authorization. In this contest, it is necessary to notice circular dated November 5, 2012 wherein it is categorically stated that "**Any authorization (ADM-1C) issued outside VATIS or without unique number shall not be valid authorization for assessment."** Further, this aspect is further clarified by the circular dated August 27, 2012 wherein the Commissioner had stated that **"Effective from September 1, 2012, all the Deputy Commissioners concerned and Additional Commissioner/Joint Commissioner, Enforcement shall issue "audit***

[1] [2015] 86 VST 363 (T and AP)

> ***authorizations' in form ADM-1B with unique number through VATIS only. Any authorization (ADM-1B) issued outside VATIS or without unique No. shall not be valid authorization for audit/assessment. Any officer conducting audit/assessment without valid authorization shall be liable for disciplinary action".*** *Further reading of the circular leaves no manner of doubt that the effort of the higher authorities is to create definite system generated methodology to avoid allegations of the arbitrariness."*

6. In view of the above said observations of the Division Bench, which are binding on us, the present Writ Petition No.21152 of 2024 is disposed of by setting aside the order of assessment and remanding the matter back to the appropriate authority to conduct fresh assessment proceedings. Needless to say the period from the date of filing of this Writ Petition to the date of receipt of this order shall be excluded for the purposes of limitation.

7. As far as the penalty proceedings are concerned, the same would also fail as the assessment order, which is the basis for such penalty proceedings has been set aside.

8. The learned counsel for the petitioner contends that steps have been initiated for recovery of the taxes, by attachment of the bank account of the petitioner

and the same requires to be set aside. In view of the fact that the order of the assessment is set aside, attachment of the bank account cannot survive and is accordingly set aside.

9. Writ Petitions are disposed of accordingly. There shall be no order as to costs.

As a sequel, interlocutory applications pending, if any shall stand closed.

R. RAGHUNANDAN RAO, J

T. C. D. SEKHAR, J

Date:22.04.2026
CMK

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THE HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

AND

THE HON'BLE SRI JUSTICE T. C. D. SEKHAR

WRIT PETITION Nos:6276 of 2025 and 21152 of 2024

(per Hon'ble Sri Justice R. Raghunandan Rao)

22.04.2026

CMK