

**IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(Special Original Jurisdiction)**

**WEDNESDAY, THE NINETEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE**

PRESENT

**THE HONOURABLE SRI JUSTICE R.RAGHUNANDAN RAO
AND
THE HONOURABLE DR JUSTICE K.MANMADHA RAO**

WRIT PETITION NO: 6934 OF 2025

Between:

M/s. Vemaiahgari Reddaiah, Flat No. 101, Narayanadri Residency, Balaji Nagar, Kadapa, YSR Kadapa District, Andhra Pradesh, Rep. by its Proprietor, Mr. Vemaiahgari Reddaiah.

...PETITIONER

AND

1. The Assistant Commissioner (State Tax), Kadapa-I Circle, #1/499, Smith Road, Opp: YSR Guest House, Near Zilla Parishad, Kadapa, YSR Kadapa District, Andhra Pradesh.
2. The State of Andhra Pradesh, Rep. by the Principal Secretary Commercial Tax to the Government, A.P. Secretariat Buildings, Velagapudi, Guntur District, Andhra Pradesh.
3. The Union of India, rep. by its Secretary (Finance), Ministry of Finance, North Block, New Delhi - 110001.
4. Tirumala Tirupati Devasthanams (TTD), TTD Administrative Building, Tirupati, Tirupati District, Andhra Pradesh, Rep. by its Superintending Engineer-II.
5. The Deputy Assistant Commissioner (State Tax)-II, O/o Assistant Commissioner (ST), Rayachoti Circle, Kadapa Division, D.No. 6/922, Chejarla Complex, Railway Station Road, Rajampet Kadapa District - 516115, Andhra Pradesh.

...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 an appropriate Writ, Order or Direction, more particularly in the nature of MANDAMUS declaring that the impugned Ex-Parte Assessment Order passed by the First Respondent vide AO No: ZH370622OD59015, dated 29-06-2022, for the Tax Period July, 2017 to November, 2020, under the GST Acts, 2017, which does not contain the mandatory Electronically generated DIN, and which does not contain any Signature/Digital Signature and is an un-signed order, without serving show cause notice and without affording opportunity of hearing and imposing higher rate of tax on the Works executed by the Petitioner for TTD/Fourth Respondent herein, as contrary to law, violative of the principles of natural justice, arbitrary, capricious, invalid, deemed to never have been issued and illegal and consequently set aside the same and alternately it is prayed that in the event the higher rate of tax imposed is upheld to direct the TTD/Fourth Respondent herein to pay the differential tax, interest and penalty imposed in the impugned order.

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 to grant stay of all further proceedings pursuant to the "Notice for attachment and sale of immovable/movable goods/shares under Section 79", vide DIN3728022513480, dated 20-02-2025, issued by Fifth Respondent.

IA NO: 2 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 to grant stay of all further proceedings, including recovery of tax, interest and penalty, pursuant to the impugned Ex-Parte Assessment Order passed by the First Respondent vide AO No: ZH370622OD59015,

dated 29-06-2022, for the Tax Period July, 2017 to November, 2020, under the GST Acts, 2017.

Counsel for the Petitioner: SRI G.NARENDRA CHETTY

Counsel for the Respondent Nos.1, 2 & 5: GP FOR COMMERCIAL TAX

**Counsel for the Respondent No.3: SRI PASALA PONNA RAO, DEPUTY
SOLICITOR GENERAL OF INDIA**

Counsel for the Respondent No.4: SC FOR TTD

The Court made the following: ORDER



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

[3525]

WEDNESDAY, THE NINETEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE DR JUSTICE K MANMADHA RAO

WRIT PETITION NO: 6934/2025

Between:

M/s. Vemaiahgari Reddaiah,

...PETITIONER

AND

The Assistant Commissioner State Tax and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1. G NARENDRA CHETTY

Counsel for the Respondent(S):

1. GP FOR COMMERCIAL TAX

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

The petitioner was served with the assessment order, in Form GST DRC-07, dated 29.06.2022, passed by the 1st respondent, under the Goods and Service Tax Act, 2017 [for short "the GST Act"], for the period July, 2017 to November, 2020. This order has been challenged by the petitioner in the present Writ Petition.

2. This assessment order, in Form GST DRC-07, is challenged by the petitioner, on various grounds, including the ground that the said proceedings does not contain the signature of the assessing officer and also DIN number, on the impugned order.

3. Learned Government Pleader for Commercial Tax, on instructions, submits that there is no signature of the assessing officer and does not contain DIN number, on the impugned assessment order.

4. The effect of the absence of the signature, on an assessment order was earlier considered by this Court, in the case of **A.V. Bhanoji Row Vs. The Assistant Commissioner (ST)**, in W.P.No.2830 of 2023, decided on 14.02.2023. A Division Bench of this Court, had held that the signature, on the assessment order, cannot be dispensed with and that the provisions of Sections-160 & 169 of the Central Goods and Service Tax Act, 2017, would not rectify such a defect. Following this Judgment, another Division Bench of this Court, in the case of **M/s. SRK Enterprises Vs. Assistant Commissioner**, in W.P.No.29397 of 2023, decided on 10.11.2023, had set aside the impugned assessment order.

5. Another Division Bench of this Court by its Judgment, dated 19.03.2024, in the case of **M/s. SRS Traders Vs The. Assistant Commissioner ST & ors**, in W.P.No.5238 of 2024, following the aforesaid two Judgments, had held that the absence of the signature of the assessing officer, on the assessment order, would render the assessment order invalid and set aside the said order.

6. The question of the effect of non-inclusion of DIN number on proceedings, under the G.S.T. Act, came to be considered by the Hon'ble Supreme Court in the case of **Pradeep Goyal Vs. Union of India & Ors**¹. The Hon'ble Supreme Court, after noticing the provisions of the Act and the circular issued by the Central Board of Indirect Taxes and Customs (*herein referred to as "C.B.I.C."*), had held that an order, which does not contain a DIN number would be *non-est* and invalid.

¹ 2022 (63) G.S.T.L. 286 (SC)

7. A Division Bench of this Court in the case of *M/s. Cluster Enterprises Vs. The Deputy Assistant Commissioner (ST)-2, Kadapa*², on the basis of the circular, dated 23.12.2019, bearing No.128/47/2019-GST, issued by the C.B.I.C., had held that non-mention of a DIN number would mitigate against the validity of such proceedings. Another Division Bench of this Court in the case of *Sai Manikanta Electrical Contractors Vs. The Deputy Commissioner, Special Circle, Visakhapatnam*³, had also held that non-mention of a DIN number would require the order to be set aside.

8. In view of the aforesaid judgments and the circular issued by the C.B.I.C., the non-mention of a DIN number and absence of the signature of the assessing officer, in the impugned assessment order would have to be set aside.

9. Accordingly, this Writ Petition is disposed of setting aside the assessment order, in Form GST DRC-07, dated 29.06.2022, passed by the 1st respondent and consequently, the Notice for attachment, in Form GST DRC-16, dated 20.02.2025 is also set aside, with liberty to the 1st respondent to conduct fresh assessment, after giving notice and by assigning a signature and a DIN number to the said order. The period from the date of the impugned assessment order, till the date of receipt of this Order shall be excluded for the purposes of limitation. There shall be no order as to costs.

²2024(88) G.S.T.L.179(A.P)

³2024(88) G.S.T.L.303(A.P)

//TRUE COPY//

Sd/- J. SAROJA
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Assistant Commissioner (State Tax), Kadapa-I Circle, 1/499, Smith Road, Opp YSR Guest House, Near Zilla Parishad, Kadapa, YSR Kadapa District, Andhra Pradesh.

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2. The Principal Secretary to the Government, State of Andhra Pradesh Secretariat Buildings, Velagapudi, Guntur District.
 3. The Secretary (Finance), Union of India, Ministry of Finance, North Block, New Delhi - 110001.
 4. The Superintending Engineer-II Tirumala Tirupati Devasthanams (TTD), TTD Administrative Building, Tirupati, Tirupati District, Andhra Pradesh.
 5. The Deputy Assistant Commissioner (State Tax)-II, O/o Assistant Commissioner (ST), Rayachoti Circle, Kadapa Division, D.No. 6/922 , Chejarla Complex Railway Station Road, Rajampet Kadapa District - 516115, Andhra Pradesh.
 6. One CC to Sri G.Narendra Chetty, Advocate [OPUC]
 7. Two CCs to GP for Commercial Tax, High Court of Andhra Pradesh. [OUT]
 8. One CC to Sri Pasala Ponna Rao, Deputy Solicitor General of India, High Court of Andhra Pradesh. [OPUC]
 9. One CC to SC for TTD. [OPUC]
 10. **Three CD Copies.**

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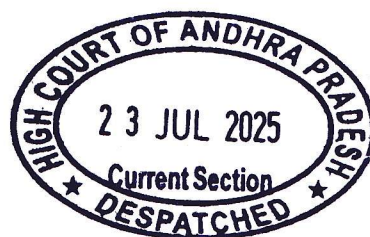
HIGH COURT

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DATED:19/03/2025

ORDER

WP.No.6934 of 2025



**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**