APHC010192432026

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

WEDNESDAY, THE TWENTY NINETH 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 NO: 10573/2026

Between:

1. ABIRAM AQUAFEEDS AND CEMENTS, 536, GAMALAPALEM, THOTAPALLI GUDUR, SPSR NELLORE DIST -524 311 REP. BY ITS PROPRIETOR MR.MANNEM SUBRAHMANYAM, AGED 45YEARS

...PETITIONER

AND

1. THE ASSISTANT COMMISSIONER STATE TAXES, NELLORE - III CIRCLE, NELLORE - 524 001, SPSR NELLORE DISTRICT, A.P..
2. THE STATE OF ANDHRA PRADESH, REP. ITS PRINCIPAL SECRETARY, (COMMERCIAL TAXES DEPARTMENT), A.P. SECRETARIAT, VELAGAPUDI - 522 238, AMARAVATI. GUNTUR DISTRICT, ANDHRA PRADESH.

...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 topleased to issue Wirt of Mandamus or any other appropriate Writ or Order or Direction declaring the action of the 1St Respondent in passing the Proceedings dated 03.01.2025 for the tax period 2023-24 under the CGST / SGST Acts,2017, without granting sufficient opportunity and passing Orders Ex-parte uploading the Notices and Orders in the Tab Additional Notices / Orders instead of Notices Orders, without waiting three months' time as per Section 73(2) of the CGST / SGST Acts,2017 when compared to the period from Show Cause Notice to the Order, more particularly the Show Cause Notice dated 22.11.2024, Order passed under Section 73 of the Act, dated 03.01.2025 and Summary of the Order in Form GST DRC-07 dated 03.01.2025 are unsigned as arbitrary, contrary to law, barred by limitation under Section 73 (2), and in violation of Principles of Natural Justice and Rule of Law and consequently set aside the Proceedings of the 1St Respondent dated 03.01 .2025 as null and void and pass

IA NO: 1 OF 2026

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 pleased to suspend the operation of the Proceedings passed by the 1st Respondent dated 03.01.2025 and Summary of the Order in Form GST DRC-07, dated 03.01.2025 for the tax for the tax period 2023-24 under the State Goods and Service Tax Act 2017 and Central Goods and Service Tax Act 2017, pending disposal of the above Writ Petition,

Counsel for the Petitioner:

1. SHAIK JEELANI BASHA

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 herein challenges the order of assessment, dated 03.01.2025, passed under Section 73 of the GST Act, 2017, on the ground that he had not been served with any notice, preceding the said order. It is also contended that the petitioner did not have notice of the impugned order as both the notice as well as the impugned order had been uploaded in the portal ad the petitioner was unaware of the same.

2. This Court, in W.P.No.16500 of 2025 & batch, had held that uploading the notices and orders in the portal would be sufficient service to the registered person in view of Section 169 (1) (d) of the GST Act. However, this Court, in subsequent writ petitions, taking into account the hardships being faced by such registered persons on account of ignorance and the manner in which the Online System functions and on account of the negligent assistance from their authorized representatives, had taken the view that it would be appropriate, in cases where notices and orders are said to have been uploaded in the portal, to give another opportunity to the said registered persons to make out their case before the Authorities.

3. This Court, while taking the aforesaid view, had also taken into account the need to balance the interests of revenue as well as the hardships being faced by the registered persons. In order to maintain the above said

balance, this Court has been directing payment of 20% of the disputed tax as a pre-condition for grant of an opportunity of hearing to the registered person.

4. In the circumstances, this Writ Petition is allowed, setting aside the impugned order, dated 13.03.2025, passed by the 1st respondent and the matter is remanded back to the 1st respondent for fresh hearing and disposal. This order is subject to the condition of the petitioner depositing 20% of the disputed tax, within a period of six (06) weeks from the date of receipt of this order. There shall be no order as to costs.

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

R. RAGHUNANDAN RAO, J

T.C.D. SEKHAR, J

Date:29.04.2026
MJA

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THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

<u>WRIT PETITION NO: 10573/2026</u>

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

29.04.2026

MJA