(SHOW CAUSE NOTICE BEFORE ADMISSION)
IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(Special Original Jurisdiction)
TUESDAY, THE TWENTY NINETH DAY OF JUNE,
TWO THOUSAND AND TWENTY ONE
: PRESENT:
THE HONOURABLE THE CHIEF JUSTICE SRI ARUP KUMAR GOSWAMI
AND
THE HONOURABLE SRI JUSTICE NINALA JAYASURYA
WRIT PETITION NO: 12234 OF 2021

Between:

M/s.H.R.Constructions, 6-2-589-1, Ramnagar, Ananthapuramu - 515 001, represented by its Managing Partner, Sri P.Hanumantha Reddy.

Petitioner

AND

1. Superintendent of Central Tax, Ananthapuramu CGST Range - 1, 4th Floor, Thakai Towers, R.F.Road, Ananthapuramu.
2. The Chief Commissioner of Excise and Central Tax, Port Area, Visakhapatnam.
3. The Union of India, represented by its Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi.
4. The State of Andhra Pradesh, represented by its Special Principal Secretary, Revenue Department, Andhra Pradesh Secretariat, Velagapudi, Amaravathi, Guntur District.

Respondents

WHEREAS the Petitioner above named through its Advocate Sri S Suri Babu presented this 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 or order or direction particularly one in the nature of Writ of Mandamus declaring sub-section (4) of Section 16 of the CGST Act, 2017, sub-section (4) of Section 16 of the APGST Act, 2017, and Section 20 of the IGST Act, 2017, in fixing a timeframe for the claim of Input Tax Credit, as contrary to the non-obstante clause contained in sub-section (2) Section 16 of the CGST Act 2017, and sub-section (2) of Section 16 of the APGST Act, 2017, and violative of Article 14, Article 19(1)(g) and Article 300A of the Constitution of India and against the Statement of Objects and Reasons appended to Constitution (One Hundred and Twenty Second Amendment) Act 2017, and set aside the impugned assessment order passed by the first respondent dated 18.02.2021, in DIN No.20210255YL000000E02E, in disallowing the Input Tax Credit claimed by the petitioner for the month of March, 2019, amounting to Rs.16,34,365/-, besides levy of interest, penalty of Rs.59,991/-, Rs.51,722/-, Rs.51,722/- under the provisions of CSGT Act, APGST Act, and IGST Act 2017, thus totaling to Rs.17,97,850/- (excluding calculation of interest).

AND WHEREAS the High Court upon perusing the petition and affidavit filed herein and upon hearing the arguments of Sri S Suri Babu, Advocate for the Petitioner, Mr.Suresh Kumar Routhu standing counsel for respondent Nos.1 & 2, Mr.N.Harinath, Assistant Solicitor General for respondent No.3 and Mr.Y.N. Vivekananda, Government Pleader attached to the office of the learned Additional Advocate General-II, appearing for respondent No.4. directed issue of notice to the Respondents herein to show cause as to why this WRIT PETITION should not be admitted.

You viz:

1. Superintendent of Central Tax, Ananthapuramu CGST Range - 1, 4th Floor, Thakai Towers, R.F.Road, Ananthapuramu.
2. The Chief Commissioner of Excise and Central Tax, Port Area, Visakhapatnam.
3. The Secretary, Union of India, Department of Revenue, Ministry of Finance, North Block, New Delhi.
4. The Special Principal Secretary, State of Andhra Pradesh, Revenue Department, Andhra Pradesh Secretariat, Velagapudi, Amaravathi, Guntur District.

are directed to show cause either appearing in person or through an Advocate, as to why in the circumstances set out in the petition and the affidavit filed therewith (copy enclosed) this WRIT PETITION should not be admitted.

IA NO: 1 OF 2021

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 pending disposal of the Writ Petition, grant stay of collection of Rs.1,7,97,850/- being levy of tax and penalty besides interest under the provisions of CSGT Act, 2017, APGST Act, 2017, and IGST Act 2017, arising in pursuance of the assessment order passed by the first respondent dated 18.02.2021, in DIN No.20210255YL000000E02E, for the month of March, 2019, or to pass, pending disposal of WP No.12234 of 2021, on the file of the High Court.

The Court made the following: ORDER

"(Through Video-Conferencing)

Heard Mr.S.Suribabu, learned counsel for the petitioner.

Also heard Mr.Suresh Kumar Routhu learned standing counsel for respondent Nos.1 & 2, Mr.N.Harinath, learned Assistant Solicitor General for respondent No.3 and Mr.Y.N. Vivekananda, learned Government Pleader attached to the office of the learned Additional Advocate General-II, appearing for respondent No.4.

Issue notice, returnable in eight weeks.

No formal steps are called for as the respondents are duly represented. However, extra copies be furnished.

Mr.S.Suribabu, learned counsel for the petitioner, has also prayed for interim stay of the order dated 18.02.2021, which is at page 39 of the appeal papers, on the basis of I.A.No.1 of 2021.

It is contended by the learned counsel for the respondents that the same is an appealable order, which is not disputed by Mr.S.Suribabu.

Considering the matter in its entirety, while entertaining the challenge made to Section 16(4) of the Central Goods and Services Tax Act, 2017, Section 16(4) of the Andhra Pradesh Goods and Services Tax, 2017 and Section 20 of the Integrated Goods and Services Tax Act, 2017, we grant liberty to the petitioner to prefer appeal against the order dated 18.02.2021, if so advised.

In that view of the matter, no orders are called for in I.A.No.1 of 2021 and the same shall stand disposed of."

SD/- E.KAMESHWAR RAO
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. Superintendent of Central Tax, Ananthapuramu CGST Range - 1, 4th Floor, Thakai Towers, R.F.Road, Ananthapuramu.
2. The Chief Commissioner of Excise and Central Tax, Port Area, Visakhapatnam.
3. The Secretary, Union of India, Department of Revenue, Ministry of Finance, North Block, New Delhi.

4. The Special Principal Secretary, State of Andhra Pradesh, Revenue Department, Andhra Pradesh Secretariat, Velagapudi, Amaravathi, Guntur District. (1 to 4 by RPAD- along with a copy of petition and affidavit)
5. One CC to Sri S Suri Babu, Advocate [OPUC]
6. One CC to Mr.Suresh Kumar Routhu, Standing Counsel [OPUC]
7. One CC to Sri Harinath N (Asst Solicitor General),High Court of Andhra Pradesh
8. Two CCs to GP for Revenue, High Court of Andhra Pradesh.[OUT]
9. Two spare copies

SP

HIGH COURT

HCJ & NJSJ

DATED: 29/06/2021

HIGH COURT OF ANDHRA PRADESH
SPECIAL CELL
8 JUL 2021
DESPATCHED

NOTICE BEFORE ADMISSION

WP.No.12234 of 2021

INTERIM DIRECTION