APHC010244432026

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

TUESDAY, THE FIFTH DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 12775/2026

Between:

1. THE PRESIDENT WATER USER ASSOCIATION, GST - 37BUZPG8215P1ZL, REP. BY ITS PRESIDENT MR. G.SIVARAMI REDDY 1/2, MAIN ROAD, KUNULKUNTLA, OWK MANDAL, NANDYAL -518522, KURNOOL DISTRICT, ANDHRA PRADESH

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP BY ITS PRINCIP9L SECRETARY, REVENUE (CT) DEPARTMENT, AP SECRETARIAT, VELAGAPUDI -522503, AMARAVATHI, GUNTUR DISTRICT, A.P
2. UNION OF INDIA, REP. BY ITS SECRETRY MINISTRY OF FINANCE, 4TH FLOOR, A-WING,' SHASTRI BHAVAN, NEW DELHI - 110001.
3. THE CHIEF COMMISSIONER OF STATE TAXES, VIJAYA ELITE, KUNCHANAPALLE SERVICE ROAD, D.NO. 12-468/4, ADJACENT TO NH-16 VIJAYA ELITE, KUNCT ANAPALLE SERVICE ROAD, KUNCHANAPALLI-522501, GUNTUR DISTRICT ANDHRA PRADESH.
4. THE ASSISTANT COMMISSIONER ST, NANDYAL-II CIRCLE, D.NO.25/3A AND 3B, MSR COMPLEX, OPP APSRTC BUS STAND, NANDYAL -518501 KURNOOL (NANDYAL) DISTRICT, ANDHRA PRADESH.
5. THE EXECUTIVE ENGINEER, WATER RESOURCES DEPARTMENT, M.I WORKS DIVISION, NANDYAL, KURNOOL-518004, 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 an appropriate writ order or direction particularly in the nature of Writ of MANDAMUS (a) declaring that the uploading of the impugned order dated 20.1.2025 on the GST portal is not enough service under Section169 of the CGST Act, read with Section 107 of the CGST Act and Rule 142(5) of the CGST Rules, to avail the remedy of appeal and consequently direct the 4th Respondent serve the physically signed copy of impugned order dated 20.1.2025 to contest further or (b) declaring the action on the part of the 4th Respondent dated 20.1.2025 for the tax period 2023-2024 under CGST /APGST Acts 2017 levying higher rate of tax @ 18 percent without any basis or foundation in contrast to the tax @ 5 percent as granted by the Government Andhra Pradesh for Neeru Chettu Programme as well as the consequential levy of interest as also penalty without considering the payments already made @ 5 percent as . illegal, arbitrary, improper, unfair, capricious , without authority of law and without jurisdiction and violating articles 14, 19(1)(g) 21 and 265 and 300-A of Constitution of India or (c) to direct the 5th Respondent to pay the balance of tax, penalty and interest and consequently to set aside the same and pass

<u>IA NO: 1 OF 2026</u>

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 stay the collection of differential tax @ 13% as well as the corresponding interest and penalty pursuant to the impugned order dated 20.1.2025 pending disposal of the writ petition and pass

Counsel for the Petitioner:

1. SRINIVASA RAO KUDUPUDI

Counsel for the Respondent(S):

1. GP FOR IRRI AND CAD
2. GP FOR COMMERCIAL TAX

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

Heard Sri Srinivasa Rao Kudupudi, the learned counsel appearing for the petitioner and Sri S. A. V. Sai Kumar, the learned Government Pleader for Commercial Taxes, appearing for the respondents.

2. The petitioner herein has approached this Court, challenging a summary of the order of assessment, passed by the 4th respondent, on 20.01.2025, on the ground that the said order does not contain a signature of the assessing officer.

3. 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.

4. 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.

5. However, the learned Government Pleader for Commercial Taxes, appearing for the respondents, would contend that the petitioner has approached this Court with inordinate delay and such delay has not been properly explained.

6. The learned counsel for the petitioner would submit that the said order had not been served on the petitioner, in the conventional method and the respondents are claiming that the order is served on the petitioner by uploading the same in the portal.

7. The learned Government Pleader, on the other hand, would contend that Section 169(1)(d) of the GST Act, 2017 prescribes that the uploading of the orders, in the portal, is a method of service, on the registered persons and in that view of the matter, it must be held that service has been effected on the petitioner.

8. The Hon'ble High Court of Allahabad in **M/s. Bambino Agro Industries Ltd. vs. State of Uttar Pradesh and Another,** in Writ Tax No.2707 of 2025, had held that uploading the order in the portal, mentioned by the GST Authorities, would not be sufficient service of the order on the registered person. This Court has taken a contrary view in W.P.No.5397 of 2026.

9. However, the fact remains that a very large number of registered persons have approached this Court with the contention that they were unable to access the portal either on account of their ignorance or on account of the fact that the persons, authorized by them, to act on their behalf, are not informing them of such order. In the normal course, this Court would not accept such a contention as neither ignorance of law nor the inability to access the portal, could have been accepted as a sufficient cause for condoning the delay in approaching this Court.

10. This Court is also not unaware of the practical difficulties that have arisen on account of the introduction of the GST regime and the introduction of the online mechanism, under this regime, for the administration of tax collection, etc.

11. Keeping in view the hardships that are being faced by various registered persons, especially in cases where the order suffer from patent irregularities, the impugned order of assessment would have to be set aside.

12. In the circumstances, with a view to balance both the difficulties being faced by the registered persons and the need for the State to maintain its administration of tax collection, it would be appropriate that writ petitions, filed by such registered persons, with delay, can be considered, subject to the registered persons paying 20% of the disputed tax. We are also fortified, in this course of action, in view of the Judgment of the Hon’ble High Court of Madras in W.P.No.1474 of 2026.

13. In these circumstances, keeping in view the fact that the present order, under challenge, suffer from an inherent defect of absence of a signature, the same is set aside and the assessment is remanded back to the Assessing Officer to pass appropriate orders, after giving due opportunity of hearing, available to the petitioner, under the provisions of the GST Act. This order is subject to the condition of the petitioner depositing 20% of the disputed tax, within a period of six (06) weeks. Such deposit shall abide by the decision in the order of assessment. Any payment made or any amount recovered from the petitioner, after the passing of the impugned order, shall be adjusted against the aforesaid 20%. Coercive steps taken against the petitioner, including attachment, for recovery of the dues under this order shall also stand set aside.

14. Needless to say, the period from the date of filling of this Writ Petition till the date of receipt of this order by the Assessing Officer, shall be excluded for the purposes of limitation and all issues are left open to be raised by the petitioner before the Assessing Officer.

15. Accordingly, this Writ Petition is disposed of. 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:05.05.2026
KPV

253

THE HON’BLE SRI JUSTICE R. RAGHUNANDAN RAO

AND

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

WRIT PETITION No.12775 of 2026

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

05.05.2026

KPV