APHC010249712026

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

[3529]

WEDNESDAY, THE SIXTH 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: 13305/2026

Between:

1. M/S THE HYDERABAD CO-OPERATIVE ASSOCIATION LTD,, D.NO. 5, 232/5, SY.NO. 165, 4TH FLOOR. NEAR NH 16, ATMAKUR VILLAGE, MANGALGIRI MANDAL, GUNTUR DISTRICT, GUNTUR, 522503. REPRESENTED BY ITS MANAGING DIRECTOR MR. KATTA CHANDRASHEKARREDDY

...PETITIONER

AND

1. THE ASSISTANT COMMISSIONER ST, GOVEMORPET CIRCLE NO-II DIVISION VIJAYAWADA, ANDHRA PRADESH-520002
2. THE CHIEF COMMISSIONER OF STATE TAX, GOVERNMENT OF ANDHRA PRADESH, D NO 5-56, BLOCK-B, R.K. SPRING VALLEY APARTMENT, BUNDER ROAD, EDUPUGALLU, VIJAYAWADA, ANDHRA PRADESH - 521144.
3. THE STATE OF ANDHRA PRADESH, REPRESENTED BY SECRETORY REVENUE (CT DEPARTMENT), SECRETARIAT BUILDING AMARAVATI-522237
4. THE ASSISTANT COMMISSIONER OF STATE TAX, ABIDS CIRCLE, HYDERGUDA- ASHOK NAGAR, HYDERABAD, TELANGANA-500001
5. THE STATE OF TELANGANA, REPRESENTED BY SECRETORY REVENUE (CT DEPARTMENT) SECRETARIAT BUILDING,

HYDERABAD -500022

...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 a Wirt of Mandamus or any other appropriate Writ or Order or Direction declaring the action of the 1st Respondent in passing the impugned Order 20-11-2025 in Form GST DRC -07 for the assessment year 2024-25 under the CGST/SGST Act 2017 through which tax was levied on an interstate transaction effected from the State of Telangana on mere presumptions and surmises of local supply as illegal arbitrary high handed and without authority of law and jurisdiction and in violation of provisions of the CGST/SGST Act as well as the principles of natural justice and set aside the same and also set aside the consequential recovery notice issued by the 1st respondent dated 05-03-2026 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 grant stay of all further proceedings in pursuance of the impugned notice of penalty dated 09-04-2026 issued by the 1st respondent in Form GST DRC-01 pending disposal of the Writ Petition, as otherwise, the Petitioner will be put to irreparable loss and hardship

Counsel for the Petitioner:

1. V SIDDHARTH REDDY

Counsel for the Respondent(S):

1. GP FOR COMMERCIAL TAX
2.

The Court made the following Order:

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

The petitioner herein was assessed to tax, under the GST Act, for the period 2024-25, by way of an order, dated 20.11.2025. Thereafter, recovery notice, dated 05.03.2026, was issued by the 1st respondent, by way of garnishee notice to the banker of the petitioner.

2. The petitioner, being aggrieved by the said order of assessment, dated 20.11.2025, as well as the recovery notice, dated 05.03.2026, has approached this Court, by way of the present Writ Petition.

3. Sri Shaik Jeelani Basha, learned counsel appearing for the petitioner has raised various grounds on the merits of the case. However, the learned counsel would also raise an additional ground that the impugned order, dated 20.11.2025, has not been signed either digitally or physically and consequently, the said order has to be invalidated.

4. The said order, in FORM GST DRC – 07, is challenged by the petitioner, on various grounds, including the ground that the said proceedings did not contain the signature of the assessing officer.

5. Learned Government Pleader for Commercial Taxes, on instructions, submits that there is no signature of the assessing officer, on the impugned assessment order.

6. 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.

7. 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.

8. Following the aforesaid Judgments, the impugned summary of the assessment order would have to be set aside, on account of the absence of the signature of the assessing officer, on the impugned assessment order.

9. This Court is also cogent of the fact that the impugned order has been passed some time back and the present writ petition has been filed with delay. However, Rule 26(3) of the CGST Rules, 2017 stipulates that service of

notice or orders, without signature, would not amount to service at all. The Hon'ble High Court of Madras in T.V.L. Deepa Traders vs. The Deputy Commissioner (W.P.No.19277 of 2024, dated 13.08.2024) had held the same view. Consequently, there is no service of the impugned order even as of today, on account of the absence of signature on the impugned proceeding. In those circumstances, the delay in approaching this Court would not be a relevant factor.

10. The learned counsel would also submit that the tax amounts claimed, under the order, dated 20.11.2025, have been recovered under the recovery notice, dated 05.03.2026.

11. For all the aforesaid reasons, the impugned order, dated 20.11.2025 is set aside on the ground that the said order does not bear a proper signature and the matter is remanded back to the 1^{st} respondent for passing fresh orders of assessment, after due notice to the petitioner. The period from the date of the impugned summary of the assessment order, till the date of receipt of this order shall be excluded for the purposes of limitation.

12. Needless to say, the amounts recovered from the petitioner, under the recovery notice, dated 05.03.2026, shall be paid on the result of the said assessment order. The 1^{st} respondent is also directed to pass necessary orders of assessment, within a period of three (03) months from the date of receipt of this order and it would be open to the petitioner to raise all grounds before the 1^{st} respondent.

13. The learned counsel for the petitioner would submit that a penalty notice has also been issued on the basis of the order, dated 20.11.2025. As the order of assessment itself has been set aside, no further purpose would be served by the penalty notice, dated 09.04.2026.

14. Accordingly, this Writ Petition is allowed.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:06.05.2026
MJA

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THE HON’BLE SRI JUSTICE R. RAGHUNANDAN RAO

AND

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

<u>WRIT PETITION No.13305 of 2026</u>

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

06.05.2026

MJA