

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)
THURSDAY, THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND TWENTY FOUR



:PRESENT:

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

AND

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION NO: 15141 OF 2024

Between:

1. Smt. Kilaru Mahalakshmi, W/o Venkata Ratnam, Aged about 70 years, Properties, R/o Plot No. 56 & 57, VIP Gardens, Manakula Vinayagar Street Tiruvannamalai, Tamil Nadu - 606 601.
2. Smt. Kilaru Subhashini @ Soha Mohammad, D/o Venkata Ratnam, Aged about 46 years, Properties, R/o A Block-001, My Home Abhra, Madhapur, Gachibowli, Ranga Reddy, T.S. - 500 032.

Petitioners

AND

1. The Union of India, Represented by the Principal Secretary, Department of Revenue Ministry of Finance Government of India, 3rd Floor, Jeevan Deep Building Sansad Marg, New Delhi - 110 001
2. The Directorate General of Goods and Services Tax Intelligence, DGGI Central Board of Indirect Taxes and Customs, Department of Revenue Ministry of Finance, Government of India, RK Puram, New Delhi - 110 066
3. Directorate General of GST Intelligence, Visakhapatnam Zonal Unit, O/o Door No. 28-14-17, Suryabagh, Beside Melody Theatre Visakhapatnam - 530 020.
4. Directorate General of GST Intelligence (DGGI), Vijayawada Regional Unit, O/o Door No. 54-1-7/2A, 1st and 2nd Floor, Samvardhini, Beside Westin School of Business, Vijayalakshmi Colony, 100 feet Road, Vijayawada - 520 008.

5. Sri Kalyana Chakravarthy Memorial Education Trust, Represented by its Executive Trustee, T. Basava Bhaskar Rao S/o T. Seetha Ramaiah, aged about 78 years, Hindu, O/o D.No. 56-15-19/3A, Ganapathi Ashramam, Patamata, Vijayawada - 520010, R/o Plot No. 14, Maruthi Colony, Patamata, Vijayawada.

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 a writ, order or direction particularly one in the nature of Writ of Mandamus declaring the action of the respondents 1 to 4 in issuing the intimation letter, dated- 21.02.2024 under section 74(5) against the petitioners and the show cause notice dated 29-05-2024 as violating of Articles 14 and 21 of the constitution of India and to consequently direct the respondent Nos.3 and 4 to take appropriate steps by raising the attachment and quash the intimation letter, dated- 21.02.2024 under section 74(5) against the petitioners and issue show cause notice dated 29-05-2024.

IA NO: 1 OF 2024

Petition under Section 151 CPC is filed praying that in the circumstances stated in the grounds filed in support of the petition, the High Court may be pleased to suspend the intimation letter, dated: 21.02.2024 issued under section 74(5) against the petitioners and show cause notice dated 29-05-2024, Pending disposal of WP 15141 of 2024, on the file of the High Court.

IA NO: 2 OF 2024

Petition under Section 151 CPC is filed praying that in the circumstances stated in the grounds filed in support of the petition, the High Court may be pleased to direct the Respondents to return the cheque no.326666 dated 20-06-2024 issued by the Petitioners, drawn on Indian Overseas Bank to release the freezing the accounts of the petitioners, Pending disposal of WP 15141 of 2024, on the file of the High Court.

IA NO: 3 OF 2024

Petition under Section 151 CPC is filed praying that in the circumstances stated in the grounds filed in support of the petition, the High Court may be pleased to grant stay not to encash cheque no.326666 dated 20-06-2024 issued by the Petitioners, drawn on Indian Overseas Bank by the respondents, Pending disposal of WP 15141 of 2024, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri Arjampudi Rama Koteswara Rao, Advocate for the Petitioner, Deputy Solicitor General of India for Respondent Nos.1&2, and of Smt. Santhi Chandra, Standing Counsel for the Respondent Nos.3&4, the Court made the following

ORDER:

The complaint of the petitioners herein is that the Tax Authorities have collected a cheque for Rs.11,35,014/- dated 20.06.2024 for payment of GST without any assessment quantifying the tax due from the petitioners.

Smt. Santhi Chandra, learned Standing Counsel for CBIC appearing for respondents 2 to 4 would submit that the said cheque had been given voluntarily by the petitioners and that assessment is at the stage of awaiting a reply from the petitioners against the show cause notice issued to the petitioners under Section 74 of the Central Goods And Services Tax Act, 2017 (herein referred to as 'CGST Act') seeking explanation from the petitioners as to why tax had not been paid and further steps under Section 74 of the CGST Act should not be taken.

Prima facie, collection of tax without any assessment would not be in accordance with law.

In the circumstances, the respondents shall not encash the cheque bearing No.326666 dated 20.06.2024 issued in favour of the respondents on Indian Overseas Bank for Rs.11,35,014/- till further orders in this Writ Petition.

This order shall, however, not preclude the respondents from completing assessment initiated against the petitioners.

Needless to say, the petitioners are free to file their objections to the show cause notice received by them.

Post on 12.08.2024.

Sd/- K. J. RAJA BABU
ASSISTANT REGISTRAR

//TRUE COPY//

For


SECTION OFFICER

To,

1. The Principal Secretary, Union of India, Department of Revenue Ministry of Finance Government of India, 3rd Floor, Jeevan Deep Building Sansad Marg, New Delhi - 110 001
2. The Directorate General of Goods and Services Tax Intelligence, DGGI Central Board of Indirect Taxes and Customs, Department of Revenue Ministry of Finance, Government of India, RK Puram, New Delhi - 110 066
3. Directorate General of GST Intelligence, Visakhapatnam Zonal Unit, O/o Door No. 28-14-17, Suryabagh, Beside Melody Theatre Visakhapatnam - 530 020. (1 to 3 BY RPAD)
4. Directorate General of GST Intelligence (DGGI), Vijayawada Regional Unit, O/o Door No. 54-1-7/2A, 1st and 2nd Floor, Samvardhini, Beside Westin School of Business, Vijayalakshmi Colony, 100 feet Road, Vijayawada - 520 008.

5. Sri Kalyana Chakravarthy Memorial Education Trust, Represented by its Executive Trustee, T. Basava Bhaskar Rao S/o T. Seetha Ramaiah, aged about 78 years, Hindu, O/o D.No. 56-15-19/3A, Ganapathi Ashramam, Patamata, Vijayawada - 520010, R/o Plot No. 14, Maruthi Colony, Patamata, Vijayawada. (Nos.4&5 **BY SPECIAL MESSENGER**)
6. One CC to SRI. ARJAMPUDI RAMA KOTESWARA RAO Advocate [OPUC]
7. One CC to SRI. SANTHI CHANDRA (Sr. Standing Counsel for CBIC) Advocate [OPUC]
8. One CC to Sri Jupudi V.K. YagnaDutt, Deputy Solicitor General of India [OPUC]
9. Two spare copies

KJ

HIGH COURT

RRR,J &
HN,J

DATED:18/07/2024

POST ON 12.08.2024

ORDER

WP.No.15141 of 2024

DIRECTION

