APHC010302492024

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

TUESDAY,THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NOS: 15141 OF 2024, 446 & 2310 OF 2025

Between:

1. SMT. KILARU MAHALAKSHMI,, W/O VENKATA RATNAM, AGED ABOUT 70 YEARS, PROPERTIES, R/O PLOT NO. 56 AND 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.

...PETITIONER(S)

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 VISAKAHPATNAM - 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.

6. DEPUTY /ASSISTANT COMMISSIONER OF CENTRAL TAX, VIJAYAWADA CGST DIVISION,GUNTUR CGST COMMISIONERATE, SATLIN CORPORATE,AUTO NAGAR,VIJAYAWADA. RESPONDENT NO.6 WAS IMPLEADED AS PER C.O.DT.08.01.2025 VIDE I.A.NO.1 OF 2025 IN W.P.NO.15141 OF 2024.

...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 tomay 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 and pass

<u>IA NO: 1 OF 2024</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 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 and to pass

IA NO: 2 OF 2024

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 may be pleased to direct the Respondents to return the cheque no.326666 dated 20-06-2024issued by the Petitioners, drawn on Indian Overseas Bank to release the freezing the accounts of the petitioners and to pass

IA NO: 3 OF 2024

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 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 and to pass

IA NO: 4 OF 2024

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 vacate the interim order dt. 18.07.2024 passed in IA No. 3 of 2024 in the instant Writ Petition No. 15141 of 2024 and pass

IA NO: 1 OF 2025

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 permit the Petitioner to implead the "Deputy/Asst. Commissioner of Central Tax, Vijayawada CGST Division Guntur CGST Commissionerate, Stalin Corporate, Autonagar, Vijayawada" as the 6^*^ Respondent to this Writ Petition

IA NO: 2 OF 2025

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 direct the 6th Respondent not to conducting Adjudicate the enquiry until the disposal of the main writ petition

IA NO: 3 OF 2025

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 may be pleased condone the delay of 159 days in re presenting the above vacate stay petition SR.NO. 23948 of 2025 in WP. No. 15141 of 2024 and pass

IA NO: 4 OF 2025

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 may be pleased to vacate the interim order dt. 08.01.2025 passed in IA No. 2 of 2025 in the instant Writ Petition No. 15141 of 2024 and pass

Counsel for the Petitioner(S):

1. KARTHIK RAMANA PUTTAMREDDY

Counsel for the Respondent(S):

1. KILARU NITHIN KRISHNA
2. SANTHI CHANDRA (Sr. Standing Counsel for CBIC)
3. SRIDHAR TUMMALAPUDI (CENTRAL GOVT COUNSEL)
4. SANTHI CHANDRA(Sr.STANDING COUNSEL FOR DRI AND DGGI)

The Court made the following common order:

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

As all these writ petitions arise out of the same issue and relate to the same immovable property they are being disposed of by way of this common order.

2. The petitioners herein are the co-owners of an immovable property situated in an extent of Ac.1.24 cents in RS.No.316/2 of Poranki Village. The building had been leased to an educational institution by way of a lease deed dated 20.05.2013.

3. The petitioners had not registered themselves under the GST Act initially. Subsequently, the petitioner in WP.No.446 of 2025 registered himself under the GST Act. However, none of the petitioners paid GST on the lease rentals received by them under the aforesaid lease deed.

4. The Director General of GST Intelligence (DGGI), Vijayawada Regional Unit, initiated proceedings against the petitioners under Section 74 of the GST Act, for recovery of GST penalty and other amounts payable by the petitioners on the rental amount received by them.

5. The details of the show-cause notices issued to the petitioners, pertaining to different assessment periods, are set out in the table below:

S.No.	Writ Petition Number	Date of Show-Cause Notice	Period Covered
1.	WP.No.1514 of 2024	29.05.2024	July 2017 - March 2022
2.	WP.No.446 of 2025	29.05.2024	July 2017 - March 2022
3.	WP.No.2310 of 2025	30.05.2024	July 2017 - March 2022

6. Aggrieved by the initiation of the aforesaid proceedings, the petitioners have approached this Court by way of the present set of writ petitions, challenging the issuance of the said show cause notices.

7. Sri Karthik Ramana Puttamreddy as well as Sri Arjampudi Rama Koteswara Rao, learned counsel for the petitioners have raised similar grounds of attack.

8. The petitioners contend that Section 74 could not have been invoked, inasmuch as there was neither any suppression of facts nor any intention to evade payment of tax or defraud the revenue. The petitioners contend that, the rental amounts received by them are covered under Entry No.12 in notification No.12/2017 dated 28.06.2017, which exempts income obtained from services by way of renting of residential dwelling for use of a residence. The petitioner would also contend that the said show-cause notices are bad and impermissible as they relate to different taxation periods and such a composite notice is not permissible in view of the judgment of a Division Bench of this Court in ***S.J Constructions Vs. The Assistant Commissioner and Others*** [1].

[1] 2025 SCC OnLine AP 3334

9. Smt. Santhi Chandra, learned Standing Counsel appearing for the respondents, would contend that the invocation of Section 74 is permissible inasmuch as there was a deliberate intention to suppress rental income and to evade payment of GST of such rental income. Learned Standing Counsel would contend that the contents of the lease deed do not show that the lease is for a residential purpose and as such the exemption claimed by the petitioners is not available to them.

10. Learned Standing Counsel would also contend that though notices have been issued for a composite period, it is always open to the respondents to issue individual orders for separate tax periods and as such issuance of such show cause notices would not, *per-se,* result in the said notices being invalid.

11. In reply, Sri Karthik Ramana Puttamreddy as well as Sri Arjampudi Rama Koteswara Rao, learned counsel for the petitioners, would contend that the facts of the case are otherwise and the property leased by the petitioners was, a residential premises let out for residential purposes. The learned counsel would also rely upon the judgment of the Hon'ble Supreme Court in ***State of Karnataka and Another Vs. Taghar Vasudeva Ambrish and Another***[2], to contend that the petitioners are covered under the said judgment and are not liable to pay any tax for the period for which the show-cause notices have been issued.

[2] 2025 SCC OnLine SC 2641

12. A Division Bench of this Court in *S.J Constructions Vs. The Assistant Commissioner and Others,* after considering various judgments had come to the conclusion that assessment proceedings have to be initiated and completed separately for each tax period and common proceedings clubbing various tax periods together is not permissible. In those circumstances, it would have to be held that even issuing composite show-cause notices covering different tax periods would not be permissible.

13. In those circumstances, it would only be appropriate that the show-cause notices are set aside and it is left open to the respondents to initiate fresh show-cause notices, if thought necessary.

14. Insofar as the rival submissions made by the learned counsel in relation to the merits of the case are concenred, this Court is of the view that it would not be appropriate to make any observations as the same would affect the further hearing in the matter before the original authority.

15. Accordingly, these writ petitions are disposed of, setting aside the impugned show-cause notices mentioned above, with a liberty to the respondents to initiate appropriate action, thought fit against the petitioners.

16. It is further made clear that, for the purposes of limitation, the period between the date of issuance of the show-cause notices and the date of this order shall be excluded.

17. The submission of the learned counsel for the petitioners that the petitioners have already paid substantial amounts towards tax in relation to the rental receipts for the period in question is also noted. However, such payments would naturally be subject to the result of the proceedings that may be initiated before the authorities.

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:16.06.2026
DSB

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THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NOS: 15141 OF 2024, 446 & 2310 OF 2025

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

Date:16.06.2026
DSB