

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI
(SPECIAL ORIGINAL JURISDICTION)

WEDNESDAY, THE TWENTIETH DAY OF AUGUST
TWO THOUSAND AND TWENTY FIVE



:PRESENT:

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO
AND

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR
WRIT PETITION NO: 22026 OF 2025

Between:

M/s Khaja Nayaab Rasool Mining Company, Sy No.54/1, 54/2, and 54/3, Main Road, Orupalli, Sri Potti Sriramanulu Nellore, Nellore - 524407, Andhra Pradesh. Rep. by its Proprietor Sri. Syed Khaja Ramtulla, S/o. Late. Khaja Mohiddin, Aged about 65 Years.

...Petitioner

AND

1. The Deputy Assistant Commissioner, Circle -I, Nellore, Andhra Pradesh.
2. State of Andhra Pradesh, Rep by its Principal Secretary, Revenue (CT) Department, Velagapudi, Amaravathi, Guntur District, Andhra Pradesh.
3. Union of India, Represented by its Secretary, Ministry of Finance, New Delhi-110001.

...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 an appropriate writ, order or direction particularly in the nature of Writ of MANDAMUS (i) declaring the action of the 1st Respondent in passing the impugned order dated 19-07-2024 passed under Section 74(9) of GST Act 2017 in RFN NO.MA370724029450Z by not following principles of natural justice as also not having DIN in the Adjudication order dated 19-07-

2024 and passed compositely without application of mind or without providing opportunity to personal hearing and does not meet the ingredients of section 74, barred by limitation, as illegal, arbitrary, unjust, improper, without authority of law and jurisdiction and contrary to the provisions of the GST Act 2017. (ii) to declare the action of the 1st respondent in levying the tax on royalty payments under RCM for the tax period 2017-18 to 2020-21 along with interest and penalty, as the royalty paid by mining, leases for mineral rights is not a tax but a consideration for land use as illegal, arbitrary, unjust, improper, without authority of law contrary to the Judgement of Supreme Court as well as articles 14, 19(1)(g), 21, 265 and 300-A of the Constitution of India and consequently to set aside the same. ✓

IA NO: 1 OF 2025

Petition under Section 151 of CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant STAY of collection of tax, penalty and interest as levied by the 1st Respondent pursuant to the impugned order dated 19-07-2024 in RFN No. MA370724029450Z, Pending disposal of WP 22026 of 2025, 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 M V J K KUMAR Advocate for the Petitioner, and of GP FOR COMMERCIAL TAX, for the Respondent Nos.1 & 2, and of ADDITIONAL SOLICITOR GENERAL OF INDIA, for the Respondent No.3, the Court made the following ✓

ORDER:

As similar matters are already pending before the First Court, it would be appropriate that this matter also be placed before the Hon'ble

The Chief Justice, for directions, for posting the matter before an appropriate Bench.

There shall be stay of collection of tax, pursuant to the impugned order, dated 19.07.2024.

SD/- M.PRABHAKARA RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Deputy Assistant Commissioner, Circle -I, Nellore, Andhra Pradesh.
2. The Principal Secretary, Revenue (CT) Department, State of Andhra Pradesh, Velagapudi, Amaravathi, Guntur District, Andhra Pradesh. (by Special Messenger)
3. The Secretary, Union of India, Ministry of Finance, New Delhi-110001. (Addressees 1 & 3 by RPAD)
4. One CC to SRI. M V J K KUMAR Advocate [OPUC]
5. Two CCs to GP FOR COMMERCIAL TAX, High Court of Andhra Pradesh. [OUT]
6. One CC to ADDITIONAL SOLICITOR GENERAL OF INDIA, High Court of Andhra Pradesh [OPUC]
7. The Section Officer, Writ (DB) Section, High Court of Andhra Pradesh, Amaravati
8. Two spare copies

PSR

HIGH COURT

**RRR,J
&
TCDS,J**

DATED:20/08/2025

ORDER

WP.No.22026 of 2025

INTERIM STAY

