[3463]

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

TUESDAY ,THE SIXTH DAY OF FEBRUARY

TWO THOUSAND AND TWENTY FOUR

:PRESENT:
THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO
AND
THE HONOURABLE SRI JUSTICE HARINATH NUNEPALLY
WRIT PETITION NO: 22663 OF 2023

Between:

Sri Venkateswara Constructions, 4/539/2, Ramalayam Street, Aravinda Nagar, Chinna Chowk, Kadapa, YSR Kadapa District, Andhra Pradesh, rep. by its Managing Partner, V. Viswanadha Reddy

Petitioner

AND

1. The Assistant Commissioner Of State Tax, O/o. Additional Commissioner (ST), Regional GST Audit and Enforcement Office, Tirupati, 7th Floor, District Collector Office Building, Tirupati, Tirupati District, Andhra Pradesh - 517504.
2. The Assistant Commissioner of State Tax, Kadapa-I Circle, 1st Floor, Opp. YSR Guest House, Smith Road, Near Zilla Parishad, Kadapa-516001, YSR Kadapa District, Andhra Pradesh.
3. The State of Andhra Pradesh, rep. by the Principal Secretary to the Government, Revenue (ST) Department, A.P. Secretariat Buildings, Velagapudi, Guntur District, Andhra Pradesh.
4. The Andhra Pradesh Industrial Infrastructure Corporation Limited (Govt. of A.P. Undertaking), Plot no. 1, I.T. Park, Mangalagiri, Guntur District, Andhra Pradesh, Rep. by its Managing Director.
5. The Union of India, rep. by its Secretary (Finance), Ministry of Finance, North Block, New Delhi - 110001.

Respondents

Petition under Article 226 of the Constitution of India is filed 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 more particularly in the nature of MANDAMUS declaring that the impugned Order in Form GST DRC-07, vide DIN. 3704082373842, dated 04-08-2023, passed by the First Respondent for the Tax Periods 2021-22 and 2022-23 (up to Nov'22) under the CGST and SGST Acts, 2017, imposing GST @ 18% on the Works Contracts (Road Works, drains etc) executed by the Petitioner for APIIC which is a Government Entity up to 31-12-2021, is contrary Sl. No. 3 (vi) of the Notification no. 11/2017-Central Tax (Rate), dated 28-06-2017 as amended by Notification no. 20/2017-Central Tax (Rate), dated 22-08-2017 and Notification no. 24/2017-Central Tax (Rate), dated 21-09-2017, is without jurisdiction, contrary to law and illegal and consequently set aside the same or alternatively in case it is held that the rate of tax @ 18% is correct, direct the APIIC/ Respondent no. 4 to pay the differential tax @ 6% with interest in respect of works executed up to 31- 12-2021 either to the Petitioner to enable it to pay to the Department or directly to the Department to the Account of the Petitioner and further direct the APIIC/ Respondent no. 4 to pay the differential tax @ 6% with interest for the works executed w.e.f. 01-01-2022 to the Petitioner so as to enable the Petitioner to pay the same to the Department or to pay the same directly to the Department to the account of the Petitioner.

IA NO: 1 OF 2023

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to grant stay of all further proceedings, including recovery of tax and interest, pursuant to the impugned Order in Form GST DRC-07, vide DIN. 3704082373842, dated 04-08-2023, passed by the First Respondent for the Tax Periods 2021-22 and 2022-23 (up to Nov'22) under the CGST and SGST Acts, 2017, pending disposal of WP 22663 of 2023, on the file of the High Court.

IA NO: 3 OF 2023

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to suspend the Garnishee Notice in Form GST DRC-13, dated 07-12-2013, relating to the Tax Periods 12/2021 to 03/2022 and 12/2022 to 03/2023 under the CGST and SGST Acts. 2017, in respect of the Petitioner's Current A/c.No.855379482, issued by the First Respondent to the Sixth Respondent Bank, pending disposal of the Writ Petition No. 22663 of 2023, 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 the earlier order of the High Court dated 29.12.2023 made herein and upon hearing the arguments of SRI.G.NARENDRA CHETTY Advocate for the Petitioner, GP for Commercial Tax for Respondent Nos.1 to 3, Deputy Solicitor General for Respondent No.4 and Sri.J.Ugra Narasimha, Standing Counsel for Respondent No.5, the Court made the following.

ORDER:

"Counter of 4th respondent not filed.

Counter as a last chance and for hearing, list the matter on 14.02.2024.

In the meanwhile, the respondent authorities shall not take any coercive steps for recovery of the balance tax by any mode."

Sd/- N. NAGAMMA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

For ASSIS…

To,

1. The Assistant Commissioner Of State Tax, O/o. Additional Commissioner (ST), Regional GST Audit and Enforcement Office, Tirupati, 7th Floor, District Collector Office Building, Tirupati, Tirupati District, Andhra Pradesh - 517504.
2. The Assistant Commissioner of State Tax, Kadapa-I Circle, 1st Floor, Opp. YSR Guest House, Smith Road, Near Zilla Parishad, Kadapa-516001, YSR Kadapa District, Andhra Pradesh.
3. The Principal Secretary to the Government, Revenue (ST) Department, State of Andhra Pradesh, A.P. Secretariat Buildings, Velagapudi, Guntur District, Andhra Pradesh.
4. The Managing Director, Andhra Pradesh Industrial Infrastructure Corporation Limited (Govt. of A.P. Undertaking), Plot no. 1, LT. Park, Mangalagiri, Guntur District, Andhra Pradesh.
5. The Secretary (Finance), Ministry of Finance, Union of India, North Block, New Delhi - 110001. (by RPAD)
6. One CC to SRI.G.NARENDRA CHETTY Advocate [OPUC]
7. Two CCs to GP FOR COMMERCIAL TAX, High Court of Andhra Pradesh. [OUT]
8. One CC to Deputy Solicitor General, High Court of A.P.(OPUC)
9. One CC to Sri.J.Ugra Narasimha, Standing Counsel (OPUC)
10. Two spare copies.

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HIGH COURT

UDPR,J &
HN,J

DATED:06/02/2024

NOTE: LIST ON 14.02.2024

ORDER

WP.No.22663 of 2023

DIRECTION

HIGH COURT OF ANDHRA PRADESH
SPECIAL CELL
13 FEB 2024
DESPATCHED