APHC010487802024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI

Bench Sr.No:-52
[3446]

WRIT PETITION NO: 25198 of 2024

Vedanta Limited ...Petitioner

Vs.

Union Of India and Others ...Respondent(s)

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Advocate for Petitioner: Arvind Datar, Senior Counsel, V. Raghuraman, Senior Counsel, A D Singh, Counsel, assisted by Avanija Inuganti, Kumar Visalaksh, Rahul Khurana, P. Bansal

Advocate(s) for Respondent(s): Santhi Chandra, Sr.Standing counsel – R5 & R6

CORAM : THE CHIEF JUSTICE DHIRAJ SINGH THAKUR
SRI JUSTICE R RAGHUNANDAN RAO

DATE : 30th January 2025

<u>P C :</u>

Notice.

Service is waived by Mr. P. Ponna Rao, learned Deputy Solicitor General, on behalf of respondent No.1.

Service is waived by learned Government Pleader for Finance on behalf of respondent No.2.

Ms. Santhi Chandra, learned Standing Counsel, waives service on behalf of respondent Nos.3 to 6.

Notice be issued for service upon the Solicitor General of India, since the vires of the GST Act are under challenge.

The petitioner challenges the show cause notice, dated 12.07.2024, issued by the Visakhapatnam Central GST Commissionerate requiring the petitioner to show cause as to why an amount of Rs.182,15,13,750/- be not recovered under the provisions of Section 74 of the CGST Act, 2017 corresponding to Section 74(1) of the APGST Act, 2017.

Learned counsel for the respondents, despite opportunities, have not filed their response and today, yet again time is sought.

Mr. Arvind Datar, Senior Counsel, appearing for the petitioner, states that the concerned authority is likely to pass an order by 04.02.2025, which is the last date available with the authorities to pass the order and unless the respondents are restrained from proceeding ahead, a liability, which is sought to be created in terms of the impugned show cause notice, which is without jurisdiction, would be fastened on the petitioner.

Learned counsel for the petitioner, with a view to bring home his point, has sought to establish a *prima facie* case by referring to the provisions of Article 279A of the Constitution of India to state that unless there is a recommendation by the GST Council, which is followed by a notification by the Government, no liability could have been fastened on the petitioner in terms of the activity of extraction of mineral oil which are being extracted in the State of Andhra Pradesh. It is stated that in the absence of the recommendations made by the GST Council, the demand as raised in the impugned show cause notice would be without any jurisdiction.

Without commenting upon the merits at this stage in the absence of appropriate response from the Union of India and the other respondents, we stay the operation of the impugned show cause notice, dated 12.07.2024, till the next date of hearing.

Counter be filed in four weeks and rejoinder within one week thereafter.

List for consideration on 17.03.2025.

DHIRAJ SINGH THAKUR, CJ

R RAGHUNANDAN RAO, J

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