(SHOW CAUSE NOTICE BEFORE ADMISSION)

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

(SPECIAL ORIGINAL JURISDICTION)

THURSDAY, THE THIRTIETH DAY OF JANUARY

TWO THOUSAND AND TWENTY FIVE

:PRESENT:

HONOURABLE SRI DHIRAJ SINGH THAKUR, THE CHIEF JUSTICE

AND

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

WRIT PETITION NO: 25198 OF 2024

Between:

Vedanta Limited, represented by its authorized representative, Mr. Sunil Gupta.

Having its Corporate Office at ASF Center Tower A, 362-363 Jwala Mill Road, Phase IV, Udyog Vihar, Sector 18, Gurugram 122016, Haryana.

And Place of Business at Ravva Onshore Terminal 1, Upplaguptam Mandal, Samanasa East Godavari District - 533 213, Andhra Pradesh.

...Petitioner

AND

1. Union of India, through Secretary (Revenue), Department of Revenue, Ministry of Finance North Block, New Delhi-110001.
2. State of Andhra Pradesh, Through Principal Secretary (Finance Department) A.P Secretariat, Velagapudi, Vijayawada, Andhra Pradesh.
3. Goods and Services Tax Council, Through the Secretary, 5th Floor, Tower II, Jeevan Bharti Building, Janpath Road, New Delhi-110001.
4. Central Board of Indirect Taxes and Customs, Through Ministry of Finance, Department of Revenue, No. 137, North Block, New Delhi-110001.
5. Additional Commissioner of Central Tax, Central GST Commissionerate, GST Bhavan, Port Area, Visakhapatnam -530 035, Andhra Pradesh.

6. Principal Commissioner of Central Tax, Central GST Commissionerate, GST Bhavan, Port Area, Visakhapatnam -530 035, Andhra Pradesh.

...Respondents

WHEREAS the Petitioner above named through its Advocate M/s AVANIJA INUGANTI presented this 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 more particularly in the nature of Writ of Mandamus

i. declare the Impugned Recommendation and Impugned Clarification as being ultra vires the CGST Act as well as the Constitution of India and as a consequence set aside Impugned SCN No. 04/2024-25/ACD dated 12.07.2024 issued by Respondent No. 5 declaring that GST is not leviable on the mining royalties

ii. declare that S.No. 17 of the Rate Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 read with S. No. 257 of the Annexure thereto as being ultra vires the CGST Act as well as the Constitution of India to the extent that it provides that GST is payable on the mining royalties and consequently set aside the same or in the alternative, read down the same so as to exclude levy of GST on mining royalties

iii. declare that clause (i) of Section 2(17) of the CGST Act is ultra vires Article 246Aof the Constitution and as such in contravention of Articles 14, 19(1)(a) and 265 of the Constitution and consequently set aside the same, or in the alternate, read down clause (i) of Section 2(17) of the CGST Act, so as to exclude any levy of GST on mining royalties

AND WHEREAS the High Court upon perusing the petition and affidavit filed herein and upon hearing the arguments of M/s AVANIJA INUGANTI

Advocate for the Petitioner, and of SRI PASALA PONNA RAO, DEPUTY SOLICITOR GENERAL OF INDIA, for the Respondent No.1, and of GP FOR FINANCE, for the Respondent No.2, and of M/s SANTHI CHANDRA, Standing Counsel for the Respondent Nos.3 to 6, directed issue of notice to the Respondents herein to show cause as to why this WRIT PETITION should not be admitted.

You viz:

1. The Secretary (Revenue), Union of India, Department of Revenue, Ministry of Finance North Block, New Delhi-110001.
2. The Principal Secretary (Finance Department), State of Andhra Pradesh, A.P Secretariat, Velagapudi, Vijayawada, Andhra Pradesh.
3. The Secretary, Goods and Services Tax Council, 5th Floor, Tower II, Jeevan Bharti Building, Janpath Road, New Delhi-110001.
4. Central Board of Indirect Taxes and Customs, Through Ministry of Finance, Department of Revenue, No. 137, North Block, New Delhi-110001.
5. Additional Commissioner of Central Tax, Central GST Commissionerate, GST Bhavan, Port Area, Visakhapatnam -530 035, Andhra Pradesh.
6. Principal Commissioner of Central Tax, Central GST Commissionerate, GST Bhavan, Port Area, Visakhapatnam -530 035, Andhra Pradesh.

are be and hereby directed to show cause either appearing in person or through an Advocate, as to why in the circumstances set out in the petition and the affidavit filed therewith (copy enclosed) this WRIT PETITION should not be admitted, on or before 17.03.2025 to which date the case stands posted for hearing.

IA NO: 1 OF 2024

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 interim relief in the form of a direction to the Respondent No. 5 to stay all further proceedings including adjudication of the Impugned SCN No. 04/2024-25/ACD dated 12.07.2024, pending disposal of WP No. 25198 of 2024, on the file of the High Court.

The Court made the following: ORDER

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.

Sd/-M.PRABHAKARA RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Solicitor General of India, Supreme Court, New Delhi
2. The Secretary (Revenue), Union of India, Department of Revenue, Ministry of Finance North Block, New Delhi-110001.

3. The Principal Secretary (Finance Department), State of Andhra Pradesh, A.P Secretariat, Velagapudi, Amaravati, Andhra Pradesh. **(by Special Messenger along with a copy of petition and affidavit)**
4. The Secretary, Goods and Services Tax Council, 5th Floor, Tower II, Jeevan Bharti Building, Janpath Road, New Delhi-110001.
5. Central Board of Indirect Taxes and Customs, Through Ministry of Finance, Department of Revenue, No. 137, North Block, New Delhi-110001.
6. Additional Commissioner of Central Tax, Central GST Commissionerate, GST Bhavan, Port Area, Visakhapatnam -530 035, Andhra Pradesh.
7. Principal Commissioner of Central Tax, Central GST Commissionerate, GST Bhavan, Port Area, Visakhapatnam -530 035, Andhra Pradesh. **(Addressees 1, 2, 4 to 7 by RPAD- along with a copy of petition and affidavit)**
8. One CC to M/s AVANIJA INUGANTI, Advocate [OPUC]
9. One CC to SRI PASALA PONNA RAO, DEPUTY SOLICITOR GENERAL OF INDIA [OPUC]
10. Two CCs to GP FOR FINANCE, High Court of Andhra Pradesh [OUT]
11. One CC to M/s SANTHI CHANDRA, Standing Counsel [OPUC]
12. **Two spare copies**

PSR

HIGH COURT

HC,J
&
RRR,J

DATED:30/01/2025

NOTE: List for consideration on 17.03.2025.

NOTICE BEFORE ADMISSION

WP.No.25198 of 2024

INTERIM STAY

HIGH COURT OF ANDHRA PRADESH
SPECIAL CELL
28 FEB 2025
★ DESPATCHED ★