IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

(SPECIAL ORIGINAL JURISDICTION)

THURSDAY, THE TENTH DAY OF JULY,

TWO THOUSAND AND TWENTY FIVE

:PRESENT:

HONOURABLE THE CHIEF JUSTICE SRI DHIRAJ SINGH THAKUR

AND

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

WP NO: 5208 OF 2025 ALONG WITH W.P.No.25198 OF 2024, 7226, 10398, 11334, 11481 OF 2025

WP.No.5208 OF 2025:

Between:

Suresh Kumar Reddy Timmireddy, Having office at H.No.8-293, Allurpet, Allur Mandal, Sri Potti Sriramulu Nellore, Andhra Pradesh, 524315 Represented by its Proprietor S/o Pattabhi Rami Reddy, Aged about 60 years, R/o. 8-2-277/2 Plot No.2 Road No.3 UBI Colony Khairatabad Hyderabad Banjara Hills Telangana – 500034.

...Petitioner

AND

1. The Assistant Commissioner of State Tax, Kavali Circle, Nellore Division, D. No: 11-22-4B, Ramamurthy Peta, Kavali, Andhra Pradesh - 524 201.
2. The Assistant Commissioner of State Tax, Nellore III Circle, Nellore Division, D. No: 15-505/2, 2nd Floor, C.T Complex, R R Street, Nellore, Andhra Pradesh - 524001
3. The Chief Commissioner of State Tax, D. No. 5-59, RK Spring Valley Apartments, Bandar Road, Edupugallu Village, Kankipadu Mandal, Vijayawada, Andhra Pradesh - 521144
4. State of Andhra Pradesh, Represented by its Principal Secretary, Revenue Department Commercial Tax, A.P. Secretariat, Velegapudi - 522 503

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 a writ, order, or direction, more particularly one in the nature of a Writ of Mandamus declaring that-

A. Demanding GST on the amounts deducted by the Government towards royalty/seigniorage, DMF and Merit are unconstitutional, without authority of law, apart from being violative of Articles 14, 19(1)(g), 246 and 265 of the Constitution of India, and to consequently set aside the same and/or pass such further or other order(s) as this Honble Court may deem fit and proper in the circumstances of the case.

B. That impugned Order Ref. No. ZD371124024811Q dated 23-11-2024 passed by the Respondent No.1 under the provisions of CGST/APGST Act, 2017 as being void, arbitrary, illegal, without jurisdiction, without authority of law apart from being violative of Articles 14, 19(1)(g) and 265 of the Constitution of India, and to consequently set aside the same.

IA NO: 1 OF 2025

Petition under Section 151 CPC is filed praying that in the circumstances stated in the grounds filed in support of the petition, the High Court may be pleased to stay operation of impugned Order Ref. No. ZD371124024811Q dated 23-11-2024 passed by Respondent No. 1, Pending disposal of WP 5208 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 the order of the High Court dated 20.03.2025 & 01.05.2025 made herein and upon hearing the arguments of Sri Pasupuleti Venkata Prasad, Advocate for the Petitioner, learned GP for Commercial Tax for the Respondent Nos.1 to 4;

WP.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, UdyogVihar, 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

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 246A of 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

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 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 30.01.2025, 17.03.2025 & 01.05.2025 made herein and upon hearing the arguments of M/s Avanija Inuganti, Advocate for the Petitioner and of Sri Challa Dhanunjaya, Additional 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;

WP NO: 7226 OF 2025:

Between:

M/s.Sri Srinivasa Stone Crusher, Represented by Sri Anusha Nadendia Its Proprietor, House No-59, 2nd Street, R.T.C.colony, Vijayawada NTR District Andhra Pradesh-520008.

Petitioner

AND

1. The Assistant Commissioner, Autonagar Circle, Vijayawada-II Division, #74-2-20, Ground Floor, KMR Sons Plaza, Yanamalakuduru Road, Krishna Nagar, Vijayawada - 520 007
2. The State of Andhra Pradesh, Represented by its Principal Secretary, Revenue Department, AP. Secretariat, Velegapudi
3. Union of India, Department of Revenue, Represented by its Secretary (Revenue), North Block, New Delhi.

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 a writ of Mandamus or any other writ, direction or order holding that Entry No. 17(viii) (SAC - 9973) of Notification No. 11/2017 - Central Tax (Rate) dated 28.06.2017 and corresponding State tax Notification in GO Ms No. 256 dated 29.06.2017 to the extent it seeks to levy GST on Mining Royalty, is without the authority of law and is ultra-vires to Entry 50 of List II in Seventh Schedule read with Article 246 of the Constitution of India;

B. the Honble Court may be pleased to issue a writ of Mandamus or any other writ, direction or order holding that Entry No. 5 of Notification No. 13/2017 - Central Tax (Rate) dated 28.06.2017 to the extent it seeks to levy GST on Mining Royalty, is without the authority of law and is ultra-vires to Entry 50 of List II in Seventh Schedule read with Article 246 of the Constitution of India;

C. Consequently, the Honble Court may be pleased to issue a writ of mandamus or any other writ, direction or order quashing the proceedings of the 1st Respondent in Order in Original dated 16.02.2024 passed for the period April 2018 to March 2023 levying GST under Reverse Charge Mechanism on the payments made towards Royalty to the Government of Andhra Pradesh as being arbitrary, without jurisdiction, unconstitutional, unreasonable and against the principles of natural justice and contrary to the provisions of the GST Act, 2017 and the rules made thereunder.

D. Consequently, the Honble Court may be pleased to issue a writ of mandamus or any other writ, direction, or order directing Respondent No. 1, to recredit to the Electronic Credit Ledger the tax liability recovered of COST Rs. 3,14,589/- & SGST Rs. 3,07,531/-, unilaterally without notice to the Petitioner, by debiting Electronic Credit Ledger vide payment Ref No. DI3702250000108 datedO1.02.2025;

IA NO: 1 OF 2025

Petition under Section 151 CPC is filed praying that in the circumstances stated in the grounds filed in support of the petition, the High Court may be pleased to stay the operation of the proceedings of the 1st Respondent in Order in Original dated 16.02.2024 passed for the period April 2018 to March 2023 (Annexure P-1) in the interest of justice, Pending disposal of WP 7226 of 2025, on the file of the High Court.

IA NO: 2 OF 2025

Petition under Section 151 CPC is filed praying that in the circumstances stated in the grounds filed in support of the petition, the High Court may be pleased to direct Respondent No. 1, to recredit to the Electronic Credit Ledger the tax liability recovered of CGST Rs. 3,14,589/- & SGST Rs. 3,07,531/-, unilaterally without notice to the Petitioner, by debiting the Electronic Credit Ledger vide payment Ref No. DI3702250000108 dated 01.02.2025., Pending disposal of WP 7226 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 the order of the High Court dated 20.03.2025 & 01.05.2025 made herein and upon hearing the arguments of Sri Anil Kumar Bezawada, Advocate for the Petitioners, GP for Commercial Tax for the Respondent Nos.1 & 2, Sri Pasala Ponnarao, Deputy Solicitor General of India for Respondent No.3;

WP NO: 10398 OF 2025:

Between:

M/s. Sri Shirdi Sai Granites, D.NO.30-50/3, Upstairs, K.N. Road, Kalyana Puram, Puttur Town, Puttur Mandal, Chittoor- 517583 Represented by its Partner, Shri Syed Abdul Hannan Arif, S/o. Mohammed Ibrahim Arif, Aged about 63 years, R/o. 25/1,5th Cross Rahamath Nagar, Bangalore North, Bangalore, Karnataka -560032

...Petitioner

AND

1. The Assistant Commissioner (ST), Chittoor-I Circle, Chitoor Division Ground floor, CT Complex Besides Devi theatre, Kattamanchi, Chittoor - 517001
2. State of Andhra Pradesh, Represented by its Principal Secretary, Revenue Department Commercial Tax, A.P. Secretariat, Velegapudi - 522 503
3. The Assistant Commissioner of Central Tax, Tirupati GST Division, D.No.15-30/4, Padmavati, Nagar, Tirupati-517 502
4. Union of India, Through the Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi-110 001
5. Central Board of Indirect Taxes and Customs, GST Policy Wing, New Delhi rep by its Commissioner

...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 a writ, order, or direction, more particularly one in the nature of a Writ of Mandamus declaring

a. That Entry No. 17(viii) (SAC - 9973) of Notification No. 11/2017 - Central Tax (Rate) dated 28.06.2017 and corresponding State tax Notification in GO Ms No. 259 dated 29.06.2017 to the extent it seeks to levy GST on Mining Royalty, is without the authority of law and is ultra-vires to Entry 50 of List II in Seventh Schedule read with Article 246 of the Constitution of India apart from being violative of Articles 14, 19(1)(g) and 265 of the Constitution of India, and to consequently set aside the same.

b. That impugned Order bearing reference no. ZD370225003536M dated 03.02.2025 passed by the Respondent No 1 under the provisions of CGST/APGST Act, 2017 as being void, arbitrary, illegal, without jurisdiction, without authority of law apart from being violative of Articles 14, 19(1)(g) and 265 of the Constitution of India, and to consequently 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 stay operation of impugned Order bearing reference No. ZD370225003536M dated 03.02.2025 passed by Respondent No. 1, Pending disposal of WP 10398 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 the order of the High Court dated 24.04.2025 & 01.05.2025 made herein and upon hearing the arguments of Sri Pasupuleti Venkata Prasad, Advocate for the Petitioner, and of GP for Commercial Tax, for the Respondent Nos.1 & 2, and of M/s Santhi Chandra, Standing Counsel for the Respondent Nos.3 & 5, Sri Pasala Ponna Rao, Deputy Solicitor General, for the Respondent No.4;

WP NO: 11334 OF 2025:
Between:

M/s. Sri Venkatasai Granites, . Represented by P. Maheswara Rao, Its Partner, 289,290/3, Basavapalli Village, Naraharipet Post, Chittoor, Gudipala Mandal, Andhra Pradesh, 517132.

Petitioner

AND

1. The Assistant Commissioner (ST), Chittoor-I Circle, Chittor Division, Ground floor, CT Complex, Besides Devi theatre, Kattamanchi, Chittoor-517001
2. The State of Andhra Pradesh, Represented by its Principal Secretary, Revenue Department, A.P. Secretariat, Velegapudi.
3. Union of India, Department of Revenue, Represented by its Secretary (Revenue), North Block, New Delhi.

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 a writ of Mandamus or any other writ direction or order holding that Entry No. 17(viii)(SAC 9973) of Notification No. 11/2017 – central tax (Rate)dated 28.06.2017 and corresponding State tax Notification in GO (Ms No 256 dated 29.06.2017 to the extent it seeks to levy GST on Mining Royalty, is without the authority of law and is ultra-vires to Entry 50 of List II in Seventh Schedule read with Article 246 the Constitution of India.

B. The Hon'ble Court may be pleased to issue a writ of Mandamus or any other writ, direction or order holding that Entry No. 5 of Notification No. 13/2017 Central Tax (Rate) dated 28.06.2017 to the extent it seeks to levy GST on Mining Royalty under Reverse Charge Mechanism, is without the authority of law and is ultra-vires to Entry 50 of List II in Seventh Schedule read with Article 246 of the Constitution of India,

C. The Hon'ble Court may be pleased to issue a writ of Mandamus or any other writ, direction or order holding that the delay in exporting of the goods by the merchant exporter beyond the period of 90 days as stipulated in para 1(ii) and para 2 of Notification No. 40/2017-Central Tax (Rate) dated 23.10.2017 only procedural one, directory, such delay can be condoned one the factum of export is established and benefit of the sa Notification cannot be denied merely due to such delay exports.

D. Consequently, the Hon'ble Court may be pleased to issue a writ of mandamus or any other writ, direction or order quashing the proceedings of the 1st Respondent in Order in Original dated vide DIN No. DIN37050225722585 dated 05.02.2025 passed for the period April 2018 to March 2022 levying GST under Reverse Charge Mechanism on the payments made towards Royalty to the Government of Andhra Pradesh and denying benefit as per Notification No. 40/2017-Central Tax (Rate) dated 23.10.2017 due to procedural lapses as being arbitrary, without jurisdiction, unconstitutional, unreasonable and against the principles of natural justice and contrary to the provisions of the GST Act, 2017 and the rules made thereunder.

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 to stay the operation of the proceedings of the 1st respondent in order in original DIN 37050225722585 dated 05-02-2025 (Annexure P-1) in the interest of justice, Pending disposal of WP 11334 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 the order of the High Court dated 01.05.2025 made herein and upon hearing the arguments of Sri

CHIRANJEEVI TALASILA Advocate for the Petitioner and of GP FOR COMMERCIAL TAX for Respondents 1 and 2;

WP NO: 11481 OF 2025:

Between:

Tirumala Granites, Shop No-1, Industrial Estate, Chitoor, 517001 Represented by its Proprietor, Ravilla Lokanatham Naidu, R/o Chittoor, Chittoor District, A.P.

...Petitioner

AND

1. Assistant Commissioner (ST), Chittoor-1 circle, Chittoor Division, State of Andhra Pradesh Represented by its Principal Secretary, Revenue Department (Commercial Tax) A P Secretariat, Velagapudi - 522 503.
2. The State of Andhra Pradesh, Represented by its Principal Secretary, Revenue Department (Commercial Tax) A P Secretariat, Velagapudi - 522 503.
3. The State of Andhra Pradesh, Department of Mines and Geology, Secretariat, Velagapudi, Represented by its Secretary
4. Union of India, Represented by its Secretary, Ministry of Finance, Department of Revenue 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,

A. the High Court may be pleased to issue a writ of Mandamus or any other writ, direction or order holding that Entry No. 17(viii) (SAC - 9973) of Notification No.11/2017 - Central Tax (Rate) dated 28.06.2017 and corresponding State tax Notification in GO Ms No. 256 dated 29.06.2017 to the extent it seeks to levy GST on Mining Royalty, is without the authority of law and is ultra-vires to Entry 50 of List II in Seventh Schedule read with Article 246 of the Constitution of India

B. The Honble Court may be pleased to issue a writ of Mandamus or any other writ, direction or order holding that Entry No. 5 of Notification No. 13/2017 - Central Tax (Rate) dated 28.06.2017 to the extent it seeks to levy GST on Mining Royalty under Reverse Charge Mechanism, is without the authority of law and is ultra-vires to Entry 50 of List II in Seventh Schedule read with Article 246 of the Constitution of India

C. It is submitted that the present writ petition is filed challenging the order bearing DIN3731012528032 dated 31.01.2025, DRC- 07 for the tax period F.Y 2017-18, 2018-19 and 2019-20. From 01.07.2017 to 31.03.2018, 01.04.2018 to 31.03.2019 and 01.04.2019 to 28.02.2020. demanding a payment of Rs. 10096314. including interest and penalty towards GST payable on the royalty as violative of petitioner rights guaranteed under Article 14 and 19(1)(g) of the Constitution of India. The facts leading to filing of the present Writ Petition as follows;

IA NO: 1 OF 2025:

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 Orders bearing DIN3731012528032 dated 31.01.2025, DRC-07 for the tax period F.Y 2017-18, 2018-19 and 2019-20 from 01.07.2017 to 31.03.2018, 01.04.2018 to 31.03.2019 and 01.04.2019 to 28.02.2020 demanding a payment of Rs.10096314 including interest and penalty towards GST payable on the royalty and stay all consequent proceedings, in the interest of justice, pending disposal of WP.No.11481 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 the order of the High Court dated 01.05.2025 made herein and upon hearing the arguments of Sri Chiranjeevi Talasila, Advocate for the Petitioner and GP for Commercial Tax for the Respondent Nos.1 to 3 and Deputy Solicitor General for the Respondent No.4, the Court made the following;

ORDER:

"Due to paucity of time, the matters are adjourned.

List on 04.09.2025.

Interim orders granted earlier shall continue to operate till the next date of hearing."

//TRUE COPY//

SD/- K.SRINIVASA RAJU
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. One CC to Sri. Pasupuleti Venkata Prasad, Advocate [OPUC]
2. One CC to M/s Avanija Inuganti, Advocate [OPUC]
3. One CC to Sri Challa Dhanamjaya, Deputy Solicitor General [OPUC]
4. Two CCs to GP for Finance, High Court of Andhra Pradesh [OUT]
5. One CC to M/s Santhi Chandra, Standing Counsel [OPUC]
6. One CC to Sri. Anil Kumar Bezawada, Advocate [OPUC]
7. Two CCs to GP for Commercial Tax, High Court of Andhra Pradesh. [OUT]
8. One CC to Sri Pasala Ponna Rao, Deputy Solicitor General [OPUC]
9. One CC to SRI. CHIRANJEEVI TALASILA Advocate [OPUC]
10. Two spare copies

HIGH COURT

HC,J
&
RRR,J

DATED: 10/07/2025

LIST ON 04.09.2025

ORDER

WP NO: 5208 OF 2025 ALONG WITH W.P.No.25198 OF 2024, 7226, 10398, 11334, 11481 OF 2025

INTERIM ORDER EXTENDED