

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

(Special Original Jurisdiction)

MONDAY, THE TWENTY SIXTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY TWO

:PRESENT:

THE HONOURABLE SRI JUSTICE C.PRAVEEN KUMAR
AND
THE HONOURABLE SRI JUSTICE A V RAVINDRA BABU

WRIT PETITION NO: 31342 OF 2022

Between:

M/s.B.G.Shirke Constructions, Technology Private Limited Through its Authorized Representative Mr. Sandip B. Gund S/o. Bhanudas Gund, Aged 37 years, Having office at Plot no. 22, D. No. 73-22-01/A, A.V.A Road Dalta Balaramkrishnam, Raju Nagar, East Godavari District, Andhra Pradesh - 533 103.

Petitioner

AND

1. Union of India, Through the Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi-110 001
2. State of Andhra Pradesh, Through The Principal Secretary, To Government, Revenue (CT-II) Department, Secretariat, Velagapudi, Amaravati, District - Guntur
3. Central Board of Indirect, Taxes and Customs, Ministry of Finance, North Block, New Delhi -110 001.
4. Assistant Commissioner (ST), D No - 22, 1st Floor, Katta Suryanarayana Complex, Rajgopal Center, Ramachandrapuram, Andhra Pradesh,
5. Joint Commissioner (ST) and Appellate Authority (ST), D No - 40-5-19/9B, Back of N.V.K.R Towers, Mogulrajpuram, Vijayawada , 520010

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 a Writ of certiorari or any other appropriate Writ/ order/ direction under Article 226 or Article 227 of the Constitution of India calling for the records pertaining to the Petitioner case and after going into the validity and legality thereof to quash and set aside impugned order dated 28.06.2022 (Exhibit 'A').

b) for costs of this Petition.

IA NO: 1 OF 2022

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 impugned Order in Order No.

ZH3706220D60283 dated 28.06.2022 passed by Respondent No.5 forthwith a direction not to recover the demand confirmed vide impugned order dated 28.06.2022, pending disposal of WP 31342 of 2022, on the file of the High Court.

IA NO: 2 OF 2022

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 call for the records pertaining to the Petitioner's case and after going into the validity and legality of the provisions thereof, admit the present petition without any requirement of pre-deposit, in as much as the entire proceeding is without jurisdiction, pending disposal of WP 31342 of 2022, 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.SAI SUNDEEP MANCHIKALAPUDI Advocate for the Petitioner and Sri.Suresh Kumar Routhu, learned Government Pleader for Commercial Tax for the respondents, the Court made the following.

ORDER:

Rule nisi. Call for records.

Sri Suresh Kumar Routhu, learned Government Pleader for Commercial Tax, takes notice on behalf of respondents and seeks time to file counter.

As seen from the record, originally the petitioner is said to have paid 10% of the disputed tax while preferring the appeal.

Learned Government Pleader for Commercial Tax would submit that if an appeal is preferred against the appellate authority's order before the Tribunal, the petitioner has to pay 20% of the remaining tax, while the same is disputed by learned counsel for the petitioner.

A reading of Section 112 (8) of the Central Goods and Services Tax Act, 2017 makes it clear that a sum equal to twenty per cent of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of Section 107, arising from the said order, in relation to which the appeal has been filed, is required to be deposited.

Hence, there shall be stay of order impugned subject to the petitioner depositing 20% of the remaining tax, within a period of four (4) weeks from today, which shall be in addition to 10% of the disputed tax amount that has been deposited, in default, the stay stands vacated automatically.

**Sd/- SK. MD. RAFI
ASSISTANT REGISTRAR**

//TRUE COPY//

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SECTION OFFICER

To,

1. The Secretary, Department of Revenue, Ministry of Finance, Union of India, North Block, New Delhi-110 001
2. The Principal Secretary, To Government, Revenue (CT-II) Department, State of Andhra Pradesh, Secretariat, Velagapudi, Amaravati, District -Guntur
3. The Central Board of Indirect, Taxes and Customs, Ministry of Finance, North Block, New Delhi -110 001.
4. The Assistant Commissioner (ST), D No - 22, 1st Floor, Katta Suryanarayana Complex, Rajgopal Center, Ramachandrapuram, Andhra Pradesh,
5. The Joint Commissioner (ST) and Appellate Authority (ST), D No - 40-5-19/9B, Back of N.V.K.R Towers, Mogulrajpuram, Vijayawada , 520010 (1 to 5 by RPAD)
6. One CC to SRI.SAI SUNDEEP MANCHIKALAPUDI Advocate [OPUC]
7. Two CCs to GP for the Commercial Tax, High Court Of Andhra Pradesh. [OUT]
8. Two spare copies

SRL

HIGH COURT

CPKJ & AVRBJ

DATED:26/09/2022

ORDER

WP.No.31342 of 2022

STAY

