

**IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)**

**TUESDAY, THE THIRD DAY OF OCTOBER,
TWO THOUSAND AND TWENTY THREE**

:PRESENT:

**THE HONOURABLE CHIEF JUSTICE SRI DHIRAJ SINGH THAKUR
AND
THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO**



WRIT PETITION NO: 35709 OF 2022

Between:

R.K.Jewellers, Represented by the proprietor:- Sri Meesala Rama Krishna D.No:- 77-91-7, Radha Nagar, Payakapuram, Vijayawada (Urban), Krishna District, Andhra Pradesh, PIN- 520015.

...Petitioner

AND

1. Assistant Commissioner of State Tax Indrakeeladri Circle - I Division, Vijayawada.
2. Joint Commissioner of State Tax, No--1 Division, Vijayawada
3. The Chief Commissioner of State Tax, 5-59, R.K. Spring Valley Apartments, Block - B, Edupugallu, Kankipadu Mandal, Krishna District, Andhra Pradesh, PIN:- 521 151

...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 in the nature of Writ of Mandamus, setting aside the common assessment orders passed by the Respondent No.1 vide AO No:- ZH370620D33657 (Ref No:- SA6/03/2022) dated 30-06-2022 and to declare that Section 16(2)(c) and Section 16(2)(d) are unconstitutional.

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 stay the collection of the demands raised in the said common assessment orders of the Respondent No.1 vide AO No:- ZH370620D33657 (Ref No:- SA6/03/2022) dated 30.06.2022, pending disposal of WP.No.35709 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 J.N.Venkata Suresh Kumar, Advocate for the Petitioner and GP for Commercial Tax for the Respondents, the Court made the following;

ORDER:

"Pleadings are complete.

Counsel for the petitioner prays that in connected matters bearing number W.P.24883 of 2023 in which petition by constitutional validity of Section 16 (2) (c) was under challenge as in the present case, this Court has been pleased to stay the recovery of the disputed tax subject to the petitioner depositing before the concerned authority, 10% of the disputed tax within four weeks.

It is stated that similar order has been passed in many petitions concerning the issue pertaining to the validity of the provision supra and prays that the petitioner be also protected on payment of 10% of the disputed tax.

Be that as it may, we direct that pending consideration of the present petition along with connected matters the order impugned shall remain stayed subject to the petitioner depositing before the concerned authority, 10% of the disputed tax within four weeks from today.

We also direct the concerned authorities to release the bank account which is reported to have been attached towards the recovery of the disputed tax with a view to enable the petitioner to pay the amount in terms of the present order.

List on 21.11.2023 along with W.P.Nos.17755 and 17756 of 2023."

//TRUE COPY//

Sd/- B. CHITTI JOSEPH
ASSISTANT REGISTRAR

For

SECTION OFFICER

To,

1. The Assistant Commissioner of State Tax Indrakeeladri Circle - I Division, Vijayawada.
2. The Joint Commissioner of State Tax, No--1 Division, Vijayawada
3. The Chief Commissioner of State Tax, 5-59, R.K. Spring Valley Apartments, Block - B, Edupugallu, Kankipadu Mandal, Krishna District, Andhra Pradesh, PIN:- 521 151 (Addressee Nos.1 to 3 by RPAD)
4. One CC to Sri. J.N.Venkata Suresh Kumar, Advocate [OPUC]
5. Two CCs to GP for Commercial Tax, High Court of Andhra Pradesh. [OUT]
6. Two spare copies

HIGH COURT

HC,J
&
RRR,J

DATED:03/10/2023

NOTE: LIST ON 21.11.2023 ALONG WITH W.P.NoS.17755 AND 17756 OF 2023

ORDER

WP.No.35709 of 2022

DIRECTION

