

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

**FRIDAY, THE TWENTIETH DAY OF OCTOBER
TWO THOUSAND AND TWENTY THREE**

:PRESENT:

**HONOURABLE THE CHIEF JUSTICE SRI DHIRAJ SINGH THAKUR
AND**

**THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO
WRIT PETITION NO: 27548 OF 2023**



Between:

M/s Vagdevi Technocrats, Represented by Naveen Nalla, its Proprietor, Plot No. 5, 10-27-17/1/2, Jagannath Nilay, 3rd Floor, Waltair Uplands, Visakhapatnam, Andhra Pradesh - 530003.

...Petitioner

AND

1. The Additional Commissioner, (ST) (Appeals), D.No. 40-5-19/9b, Back Of NVKR Towers, Mogalrajapuram, Vijayawada 520010.
2. The Assistant Commissioner (ST), Chinna Waltair Circle, Visakhapatnam I Division, Ravi House, D.No.1-106 13, Sector 8, MVP Colony, Visakhapatnam - 530017.
3. State of Andhra Pradesh, Through the Principal Secretary, To Government Revenue (CT-II) Department Secretariat, Velagapudi, Amravati District, Guntur.
4. The Assistant Commissioner of Central Tax, Visakhapatnam North CGST Division, D.No.10-50-22, Siripuram, Besides Hotel Vivana, Visakhapatnam 530 003.

...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, direction or order holding the Provisions of Section 16(2)(c) of the CGST Act, 2017 as well as Section 16(2)(c) of the APGST Act, 2017 is arbitrary, without jurisdiction, unconstitutional, against to the principles of natural justice and as ultra-wires to the provisions of Article 14, 300A and Article 19(1)(g) of the Constitution of India,

B. Consequently issue a writ of certiorari, direction or order quashing the Proceedings of the 1st Respondent, vide Order in Appeal Ref No. ZD370723005463J dated 07.07.2023 (Annexure P-1), in dismissing the first Appeal and upholding the demand of reversal of Input Tax Credit of Rs.28,96,023/- and Penalty equivalent to tax of Rs.28,96,023/- under Section 74 of the CGST Act, 2017 imposed in the Order in Original No. ZA3706200009012 dated 10.06.2020 (Annexure P-2) by the 2nd Respondent is arbitrary, without jurisdiction, unconstitutional, against to the principles of natural justice and contrary to various precedents laid down in the subject matter and violative of Article 14, 300A and Article 19(1)(g) of the Constitution of India. Hence, the proceedings of the 1st Respondent are liable to be set aside in present facts and circumstances of the case.

IA NO: 1 OF 2023

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 stay the operation of the Order in Appeal Ref No. ZD370723005463J dated 07.07.2023 (Annexure P-1) and set aside consequent recovery notice issued vide DIN No. 3728092348629 dated 25.09.2023 by the 2nd Respondent requesting to pay the demand of Rs.57,92,046/- in the interest of justice, Pending disposal of WP 27548 of 2023, 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 ANIL KUMAR BEZAWADA Advocate for the Petitioner, and of GP FOR COMMERCIAL TAXES, for the Respondent Nos.1 to 3, and of Ms. SANTHI CHANDRA, Standing Counsel for the Respondent No.4, the Court made the following

ORDER:

Notice services waived by learned Government Pleader for Commercial Taxes for respondent Nos.1 to 3.

Ms. Santhi Chandra, learned standing counsel, waives notice for respondent No.4.

Response be filed in six weeks.

List on 01.12.2023.

In the meantime, there shall be stay of collection of the balance of the disputed tax and the bank accounts attached belonging to the petitioner shall be released subject to payment of 20% of the remaining amount of the disputed tax within four weeks from today.

Sd/-U.SRIDEVI
ASSISTANT REGISTRAR
[Signature]
SECTION OFFICER

//TRUE COPY//

To,

1. The Additional Commissioner, (ST) (Appeals), D.No. 40-5-19/9b, Back Of NVKR Towers, Mogalrajapuram, Vijayawada 520010.
2. The Assistant Commissioner (ST), Chinna Waltair Circle, Visakhapatnam I Division, Ravi House, D.No.1-106 13, Sector 8, MVP Colony, Visakhapatnam - 530017.
3. The Principal Secretary, To Government Revenue (CT-II) Department, State of Andhra Pradesh, Secretariat, Velagapudi, Amaravati District, Guntur.

4. The Assistant Commissioner of Central Tax, Visakhapatnam North CGST Division, D.No.10-50-22, Siripuram, Besides Hotel Vivana, Visakhapatnam 530 003. **(Addressees 1 to 4 by RPAD)**
5. One CC to SRI. ANIL KUMAR BEZAWADA Advocate [OPUC]
6. One CC to Ms SANTHI CHANDRA, Standing Counsel [OPUC]
7. Two CCs to GP FOR COMMERCIAL TAXES, High Court of Andhra Pradesh. [OUT]
8. Two spare copies

PSR

HIGH COURT

**HC,J
&
RRR,J**

DATED:20/10/2023

NOTE: LIST ON 01.12.2023.

ORDER

WP.No.27548 of 2023

INTERIM STAY

