



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3529]

WEDNESDAY, THE TENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 31510/2025

Between:

1.MALLESWARI GAS AGENCY, REP. BY ITS PROPRIETOR ANANTHA
RAMA RAO RAMISETTY S/O RAMISETTY KOTAIAH, AGED ABOUT
81 YEARS, D.NO. 12/3/41, NEAR GOVT. SCHOOL, RING ROAD,
MACHERLA, PALNADU DISTRICT - 522426

...PETITIONER

AND

- 1.ASSISTANT COMMISSIONER, (FAC) (ST), PIDUGURALLA CIRCLE,
GUNTUR -II DIVISION
- 2.DEPUTY ASSISTANT COMMISSIONER ST II, PIDUGURALLA
CIRCLE, GUNTUR-II DIVISION.
- 3.THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL
SECRETARY, COMMERCIAL TAXES DEPARTMENT, AP
SECRETARIAT, VELAGAPUDI, GUNTUR DISTRICT.
- 4.THE UNION OF INDIA, REP. BY ITS SECRETARY, FINANCE,
MINISTRY OF FINANCE, NORTH BLOCK, NEW DELHI.
- 5.THE BRANCH MANAGER, ANDHRA BANK, MACHERLA BRANCH,
PALNADU DISTRICT.

...RESPONDENT(S):

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 of any other appropriate Writ or direction declaring the impugned Assessment Order in Form DRC-07 dated 4.04.2024 passed by the 1st Respondent for the year 2018-19 under Section 73 of GST Act, disallowing an amount of Rs 11,53,690/- ITC of the months of September 2018 and March 2019 on the ground of limitation under Section 16(4), and subsequent attachment of bank account of the petitioner in 5th Respondent bank dated 31.05.2025 and attachment of immovable property under Section 79 dated 13.08.2025, being contrary to Section 16(5) of GST Act as inserted vide Finance (No.2) Act, 2024 and notified through Notification No. 17/2024- CT dated 27.09.2024, without signature, without having any Reference Number or DIN, without service of SCN or Assessment Order, is illegal, arbitrary, contrary to law, without jurisdiction, in violation of principles of natural justice and consequently set aside the same and pass

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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 Pleased to grant stay of all further proceedings, including recovery of tax along with interest and penalty totaling to Rs 23,10,794/-, pursuant to the impugned Assessment Order in Form DRC -07 passed by 1st the Respondent for the year 2018-19 under Section 73 and subsequent attachment of bank account of the petitioner in 5th Respondent bank dated 31.05.2025 and attachment of immovable property under Section 79 dated 13.08.2025, and pass

Counsel for the Petitioner:

1.L CHANDRA OBUL REDDY

Counsel for the Respondent(S):

1.GP FOR COMMERCIAL TAX

The Court made the following Order: *(Per Hon'ble Sri Justice R. Raghunandan Rao)*

The petitioner is a registered person under the Goods and Services Tax Act, 2017 [for short "the GST Act"]. An Order of assessment, for the period September, 2018 and March, 2019 was passed in relation to the petitioner, under the GST Act. In this Order, the claim of the petitioner for input tax credit was rejected on the ground that the necessary returns in relation to such input tax credit were filed beyond the period stipulated under Section 16(4) of the GST Act. The petitioner assails this order on the ground that the petitioner had filed the necessary returns claiming such input tax credit on 30.11.2021 and that the petitioner was entitled to such input tax credit, in view of the subsequent insertion of Section 16(5), in the GST Act. The issue of whether such input tax credit is to be given to a person who has filed the necessary returns by 30.11.2021 had come up for consideration before this Court on various occasions. This Court, had held that any return filed on or before 30.11.2021, for the financial years 2017-18 to 2020-21, can be entitled for such input tax credit being taken into account.

2. There has been a delay in filing the Writ Petition inasmuch as the impugned order of assessment had been passed on 24.04.2024, while the Writ Petition has come to be filed in November-2025. The explanation given for such delay is that the petitioner is 81 years old and had undergone a Bypass surgery in May-2024 and was unable to recover fully and take up the affairs of his business. As a reasonable cause is made out, the said delay is not taken into account by this Court.

3. For all the aforesaid reasons, this Writ Petition is allowed setting aside the impugned Order of assessment, dated 24.04.2024, with a direction to the 1st respondent to consider the claim of the petitioner for input tax credit of Rs.11,53,690/- in terms of Section 16(5) of the GST Act. The said assessment is to be completed within a period of six weeks from the date of receipt of this Order. There shall be no order as to costs.

As a sequel, interlocutory applications pending, if any shall stand closed.

R. RAGHUNANDAN RAO, J

T.C.D. SEKHAR, J

Date: 10.12.2025
BSM

THE HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

AND

THE HON'BLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION No.31510 of 2025

(Per Hon'ble Sri Justice R. Raghunandan Rao)

10.12.2025

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