[3488]

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
TUESDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND TWENTY SIX
:PRESENT:
THE HONOURABLE THE CHIEF JUSTICE APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN
WRIT PETITION NOs: 15120 OF 2026; 11548, 28943 AND 29094 OF 2024

W.P.No.15120 of 2026

Between:

M/s. SRC Constructions Pvt Ltd, Plot No.59, Lokanivas, H.No.6-18-67, NGO's Colony, Dubba Kanteshwar Road, Subhash Nagar, Nizamabad -503 002 Rep. by its Authorised Signatory, Mr.Kethireddy Ramgopal Reddy, aged 50years

...PETITIONER

AND

1. The Assistant Commissioner of Central Tax, The Assistant Commissioner of Central Tax, Nizamabad Division, Medchal Commissionerate, KNAR Estate, 3rd Floor, Nizamabad -503 001, Telangana State.
2. The Additional Commissioner (Appeals-II), Central Tax, Office of the Commissioner and Central Tax Division -Appeals - II, Hyderabad Comissionerate, GST Bhavan, L.B.Stadium Road, Hyderabad -500 004.
3. The State of Telangana, Represented by its Principal Secretary, Roads and Buildings Department, Telangana Secretariat, Hyderabad -500 004.
4. The State of Telangana, Represented by its Spl. Chief Secretary to Government (FAC), Irrigation & CAD (Reforms) Department, State Secretariat, Hyderabad -500 004.
5. The District Collector of Magistrate, Nizamabad District, Nizamabad -503 002
6. The Superintending Engineer, R & B Circle, Nizamabad, State of Telangana -503 002
7. The Executive Engineer, R & B Division, Nizamabad, State of Telangana -503 002
8. The Union of India, Rep. by its Secretary, Department Of Revenue, Ministry of Finance, New Delhi
9. The Central Board of Indirect Taxes and Customs., Rep. by its Chairman, Ministry of Finance, Department of Revenue, North Block, Central Secretariat, New Delhi -100 001.

...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 Writ of Mandamus or any other appropriate Writ or Order or direction declaring. (1) the action of the 1st Respondent in passing the Order-in-Original dated 23.11.2023 by way of Composite Order for the tax periods 2017-18 to 2019-20 under, the CGST / SGST Acts,2017, without following the due process of law and directing to make payment of differential rate of tax of 7% (i.e 12%- 5%) on the works executed by the Petitioner to the Government Departments as arbitrary, contrary to law, without jurisdiction and in violation of Principles of Natural Justice and Rule of Law, against Article 14, 19 (i) (g) and 265 of the Constitution of India and consequently set aside both the Order-in-Original dated 23.11.2023 and Appeal Proceedings of the 2nd Respondent dated 26.02.2026, as null and void.

I.A. NO: 1 OF 2026

Petition under Section 151 of C.P.C 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 operation of the Proceedings passed by the 1st Respondent dated 23.11.2023 and Appeal Proceedings of the 2nd Respondent dated 26.02.2026 issued for the tax period from 2017-18 to 2019-20 under the State Goods and Service Tax Act 2017 and Central Goods and Service Tax Act 2017, pending disposal of WP.No.15120 of 2026, 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: 05.05.2026 made herein and upon hearing the arguments of SRI. SHAIK JEELANI BASHA Advocate for the Petitioner, SRI. DOMINIC FERNANDES Advocate for the Respondent Nos.1, 2 and 9, GP FOR ROADS AND BUILDINGS for the Respondent Nos.3, 6 and 7, GP FOR REVENUE for the Respondent No.5 and GP FOR IRRIGATION AND COMMAND AREA DEVELOPMENT for the Respondent No.4,

W.P.No.11548 of 2024

Between:

M/s. Pro Audio Vision, H.No.1/3/6, Raj Mudallar Street, Beside Hotel Minerva Grand, Hyderabad, Telangana 500003 Represented by its Proprietor Mr. Shaik Rasheed.

...Petitioner

AND

1. The Assistant Commissioner Central Tax, Begumpet GST Division, S.P., Road, Queens Plaza, Secunderabad.
2. Assistant Commissioner, Circle II, Audit-II Commissionerate, Hyderabad.
3. The Union of India, Rep. by its Secretary, Ministry of Finance, Government of India, North Block, New Delhi 110 001.

4. The Central Board of Indirect Taxes and Customs,, Rep. by its Chairman, Ministry of Finance, Department of Revenue, North Block, Central Secretariat, New Delhi 100 001.

...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 be pleased to issue Writ of Mandamus or any other appropriate Writ or Order or direction declaring (1) the action of the Respondent in passing the Order-in Original, dated 06.10.2023 for the tax period 2017-18 to 2019-2020, as arbitrary, contrary to the provisions of the CGST / SGST / IGST Acts 2017, patently barred by limitation, without jurisdiction as contemplated under Section 73(10) of the CGST/SGST Act 2017, in consonance with Notification No.09\2023-Central Tax dated 31.03.2023, as illegal, ultra vires to Section 168A of the CGST/SGST Act 2017, without jurisdiction, bias, frivolous, and in violation of Principles of Natural Justice and contrary to Article 14, 19 (1) (g), 265 of the Constitution of India; (2) declare Notification No.09\2023-Central Tax dated 31.03.2023 issued by the Union of India as ultra vires to Section 168A of the CGST/SGST Acts, 2017 and set aside the Order-in-Original of the 1st Respondent, dated 06.10.2023, as null and void;

<u>IA NO: 1 OF 2024</u>

Petition under Section 151 CPC 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 operation of the Order-in-Original of the 1st Respondent, dated 06.10.2023, for the tax period 2017-18 to 2019-2020, passed under the CGST / SGST / IGST Acts,2017, pending disposal of WP.No11548 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 order of the High Court dated: 29.04.2024 made herein and upon hearing the arguments of SRI. SHAIK JEELANI BASHA Advocate for the Petitioner, GP FOR COMMERCIAL TAX for the Respondent Nos.1 and 2, SRI. N. BHUJANGA RAO (DEPUTY SOLICITOR GENERAL OF INDIA) Advocate for the Respondent No.3 and SRI. DOMINIC FERNANDES Advocate for the Respondent No.4,

<u>W.P.No.28943 of 2024</u>

Between:

M/s.Madhusudhan Reddy, 3-8, Suraram Village, Shankarampeta Mandal, Medak. Medak District 502255. Rep. by its Proprietor Mr.Madhusudhan Reddy Gangumalla

...Petitioner

AND

1. The Deputy Commissioner (ST)(STU), Nizamabad Division, Nizamabad.
2. The Assistant Commissioner (ST)., Medak Circle, Nizamabad Division, Nizamabad.
3. The State of Telangana, Rep. by its Principal Secretary, Revenue (CT) Department, Hyderabad.
4. The Union of India, Rep. by its Secretary, Department of Revenue, Ministry of Finance, New Delhi.
5. The Central Board of Indirect Taxes and Customs, Rep. by its Chairman, Ministry of Finance, Department of Revenue, North Block, Central Secretariat, New Delhi 100 001.
6. The Superintending Engineer, Panchayat Raj Circle Medak.
7. The Executive Engineer, Panchayat Raj Division, Medak.
8. The Managing Director, Telangana State Housing Corporation Limited, H.No.3-6-184, Street No.17, Himayathnagar, Hyderabad.
9. The District Collector, Medak. Medak District.

...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 Writ of mandamus or any other appropriate Writ or Order or Orders or Direction declaring.

(1) the action of the 1st Respondent in passing the Order, dated 05.07.2024, the Summary of the Order in Form GST DRC-07, dated 05.07.2024 and Proceedings, date 04.07.2024 under Section 74 of the CGST/SGST Act 2017, instead of under Section 73 of the CGST/SGST Act 2017, for the tax period 2017-18, without generating Document Identification Number (DIN), without providing sufficient opportunity of being heard to the Petitioner, without signature in Form GST DRC-01. dated 29.05.2024 as well as in the Order, dated 05.07.2024, the Summary of the Order in Form GST DRC-07, dated 05.07.2024 and Proceedings, date 04.07.2024, as arbitrary, contrary to the provisions of the CGST/SGST Act, not valid in the eye of law. in violation of Principles of Natural Justice and Rule of Law. and contrary to the Article 14 and 21 of the Constitution of India.

(2) the action of the 1st Respondent in not issuing the Form GST DRC-01A, as contrary to Section 169 of the CGST/SGST Act 2017 read with Rule 142(1A) of the CGST/SGST Act 2017.

(3) the action of the 1st Respondent in levying differential tax of 7 percent on the works contract services provided by the Petitioner for the tax period 2017-18, without payment by the Respondent No.6 to 9. is contrary to G.O.Ms.No.67, IAD, dated 04.07.2018, as illegal, arbitrary, improper, unfair, violating articles 14, 19(1(g), 21 and 300A of the Constitution of India, directing the 6th to 9th Respondents to pay the impugned demands to the credit of the 1st Respondent in terms of impugned order

(4) The invoking Section 74 of the CGST/SGST Act 2017 by passing the Order, Summary of the Order and Proceedings to overcome limitation, taking extended period of limitation, for the tax period 2017- 18, is not valid in the eye of law.

(5) barred by limitation for the tax period 2017-18, without jurisdiction as per Section 73(10) of the SGST/CGST Act 2017, more particularly G.O.Ms.No.118, dated 25.08.2023 issued by the 3'd Respondent extending the limitation period to make the assessment, as illegal, ultra vires to Section 168A of the SGST/CGST Act 2017 and contrary to Article 14, 19(1)(g) and 265 of the Constitution of India and

(6) G.O.Ms.No.118, dated 25.08.2023 issued by the Government of Telangana as ultra vires to Section 168A of the SGST/CGST Act 2017 and consequently set aside the Order, dated 05.07.2024, Summary of the Order in Form GST DRC-07, dated 05.07.2024 and the Proceedings, dated 04.07.2024 passed by the 1st Respondent, for the tax period 2017-18 under the SGST/CGST Act 201', as null and void, and consequently set aside the Order, dated 05.07.2024, the Summary of the Order in Form GST DRC-07, dated 05.07.2024 and Proceedings, date 04.07.2024 passed by the 1st Respondent, as null and void;

IA NO: 1 OF 2024

Petition under Section 151 CPC 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 Operation of the Order, dated 05.07.2024, the Summary of the Order in Form GST DRC-07, dated 05.07.2024 and Proceedings, date 04.07.2024 passed by the 1st Respondent for the tax period 2017-18 under the CGST/SGST Acts 2017, as otherwise, the Petitioner will be put to severe loss and hardship., Pending disposal of WP 28943 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 order of the High Court dated: 22.10.2024 made herein and upon hearing the arguments of SRI. SHAIK JEELANI BASHA Advocate for the Petitioner, GP FOR COMMERCIAL TAX for the Respondent Nos.1 to 3, SRI. N. BHUJANGA RAO (DEPUTY SOLICITOR GENERAL OF INDIA) Advocate for the Respondent No.4, SRI. DOMINIC FERNANDES Advocate for the Respondent No.5, GP FOR PANCHAYAT RAJ AND RURAL DEVELOPMENT for the Respondent Nos.6 and 7 and SRI. A. PHANI BHUSHAN Advocate for the Respondent No.8 and GP FOR REVENUE for the Respondent No.9,

W.P No. 29094 of 2024

Between:

M/s.Madhusudhan Reddy, 3-8, Suraram Village, Shankarampeta Mandal, Medak. Medak District 502255. Rep. by its Proprietor Mr.Madhusudhan Reddy Gangumalla

...Petitioner

AND

1. The Deputy Commissioner (ST)(STU), Nizamabad Division, Nizamabad.
2. The Assistant Commissioner (ST)., Medak Circle, Nizamabad Division, Nizamabad.
3. The State of Telangana, Rep. by its Principal Secretary, Revenue (CT) Department, Hyderabad.
4. The Union of India, Rep. by its Secretary, Department of Revenue, Ministry of Finance, New Delhi.
5. The Central Board of Indirect Taxes and Customs, Rep. by its Chairman, Ministry of Finance, Department of Revenue, North Block, Central Secretariat, New Delhi 100 001.
6. The Superintending Engineer, Panchayat Raj Circle Medak.
7. The Executive Engineer, Panchayat Raj Division, Medak.
8. The Managing Director, Telangana State Housing Corporation Limited, H.No.3-6-184, Street No.17, Himayathnagar, Hyderabad.
9. The District Collector, Medak. Medak District.

...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 Writ of Mandamus or any other appropriate Writ or Order or Direction declaring.

(1) the action of the 1st Respondent in passing the Order, dated 05.07.2024, the Summary of the Order in Form GST DRC-07, dated 05.07.2024 and Proceedings, date 04.07.2024 under Section 74 of the CGST/SGST Act 2017, instead of under Section 73 of the CGST/SGST Act 2017, for the tax period 2018-19, without generating Document Identification Number (DIN), without providing sufficient opportunity of being heard to the Petitioner, without signature in Form GST DRC-01, dated 29.05.2024 as well as in the Order, dated 05.07.2024, the Summary of the Order in Form GST DRC-07, dated 05.07.2024 and Proceedings, date 04.07.2024, as arbitrary, contrary to the provisions of the CGST/SGST Act, not valid in the eye of law, in violation of Principles of Natural Justice and Rule of Law and contrary to the Article 14 and 21 of the Constitution of India

(2) the action of the 1st Respondent in not issuing the Form GST DRC - 01A, as contrary to Section 169 of the CGST/SGST Act 2017 read with Rule 142(1A) of the CGST/SGST Act 2017

(3) the action of the 1st Respondent in levying differential tax of 7 percent on the works contract services provided by the Petitioner for the tax period 2018 - 19, without payment by the Respondent No.6 to 9, is contrary to G.O.Ms.No.67, IAD, dated 04.07.2018, as illegal, arbitrary, improper, unfair, violating articles 14, 19(1(g), 21 and 300A of the Constitution of India, directing the 6th to 9th Respondents to pay the impugned demands to the credit of the 1st Respondent in terms of impugned order.

(4) The invoking Section 74 of the CGST/SGST Act 2017 by passing the Order, Summary of the Order and Proceedings to overcome limitation, taking extended period of limitation, for the tax period 2018-19, is not valid in the eye of law.

(5) barred by limitation for the tax period 2018-19, without jurisdiction as per Section 73(10) of the SGST/CGST Act 2017, more particularly G.O.Ms.No.118, dated 25.08.2023 issued by the 3rd Respondent extending the limitation period to make the assessment, as illegal, ultra vires to Section 168A of the SGST/CGST Act 2017 and contrary to Article 14, 19(1)(g) and 265 of the Constitution of India and

(6) G.O.Ms.No.118, dated 25.08.2023 issued by the Government of Telangana as ultra vires to Section 168A of the SGST/CGST Act 2017 and consequently set aside the Order, dated 05.07.2024, Summary of the Order in Form GST DRC-07, dated 05.07.2024 and the Proceedings, dated 04.07.2024 passed by the 1st Respondent, for the tax period 2018-19 under the SGST/CGST Act 2017, as null and void, and consequently set aside the Order, dated 05.07.2024, the Summary of the Order in Form GST DRC-07, dated 05.07.2024 and Proceedings, date 04.07.2024 passed by the 1st Respondent, as null and void;

IA NO: 1 OF 2024

Petition under Section 151 CPC 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 Operation of the Order, dated 05.07.2024, the Summary of the Order in Form GST DRC-07, dated 05.07.2024 and Proceedings, date 04.07.2024 passed by the 1st Respondent for the tax period 2018-19 under the CGST/SGST Acts 2017, as otherwise, the Petitioner will be put to severe loss and hardship., pending disposal of WP.No.29094 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 order of the High Court dated: 22.10.2024 made herein and upon hearing the arguments of SRI. SHAIK JEELANI BASHA Advocate for the Petitioner, GP FOR COMMERCIAL TAX for the Respondent Nos.1 to 3, SRI. N. BHUJANGA RAO (DEPUTY SOLICITOR GENERAL OF INDIA) Advocate for the Respondent No.4, SRI. DOMINIC FERNANDES Advocate for the Respondent No.5, GP FOR PANCHAYAT RAJ AND RURAL DEVELOPMENT for the Respondent Nos.6 and 7 and SRI. A. PHANI BHUSHAN Advocate for the Respondent No.8 and GP FOR REVENUE for the Respondent No.9, the Court made the following.

ORDER:

At the request of learned Senior Standing Counsel for Central Board of Indirect Taxes and Customs for an adjournment on the ground of filing counter affidavits and with the consent of the learned counsel for the other side, list these cases after two weeks.

Interim order, granted earlier in the respective writ petitions, shall continue till the next date of hearing.

Sd/- N.CHANDRA SEKHAR RAO
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. One CC to SRI. SHAIK JEELANI BASHA, Advocate [OPUC].
2. One CC to SRI. N. BHUJANGA RAO (DEPUTY SOLICITOR GENERAL OF INDIA), Advocate [OPUC].
3. Two CCs to GP FOR REVENUE, High Court for the State of Telangana at Hyderabad [OUT].
4. Two CCs to GP FOR ROADS AND BUILDINGS, High Court for the State of Telangana at Hyderabad [OUT].
5. Two CCs to GP FOR IRRIGATION AND COMMAND AREA DEVELOPMENT, High Court for the State of Telangana at Hyderabad [OUT].
6. Two CCs to GP FOR COMMERCIAL TAX, High Court for the State of Telangana at Hyderabad [OUT].
7. Two CCs to GP FOR PANCHAYAT RAJ AND RURAL DEVELOPMENT, High Court for the State of Telangana at Hyderabad [OUT].
8. Two spare copies

HIGH COURT

HCJ & GMMJ

DATED: 30-06-2026

LIST THESE CASES AFTER TWO WEEKS.

ORDER

WRIT PETITION NOs: 15120 OF 2026; 11548, 28943 AND 29094 OF 2024

INTERIM ORDER EXTENDED