

APHC010530072023

IN THE HIGH COURT OF ANDHRA PRADESH

AT AMARAVATI

(Special Original Jurisdiction)



WEDNESDAY, THE SECOND DAY OF JULY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

AND

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

WRIT PETITION NO: 27416 OF 2023

Between:

1. GODAVARI POLYMERS PRIVATE LIMITED, rep. by its Managing Director
Mr. C. Venkateshwar Rao D.No.12-12-43, 1st Floor, Padi Street, One Town,
Vijayawada, Krishna District, Andhra Pradesh.

...PETITIONER

AND

1. THE COMMERCIAL TAX OFFICER, Park Road Circle, Vijayawada,
Krishna District, Andhra Pradesh.

2. The Chief Commissioner of State Tax, Government of Andhra Pradesh,
DNo.5-59, Bandar Road, R.K. Spring valley Apartments, Edupugallu,
Vijayawada, Andhra Pradesh 521151

3. State of Andhra Pradesh, Rep. by its Principal Secretary (Revenue)(GST)
Department, Secretariat Building, Velagapudi, Amaravathi, Guntur 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 an appropriate writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in passing the impugned assessment order dated 2-2-2022 for the assessment year 2018-19 under CGST /APGST Act 2017 and the consequential garnishee notice dated 15-5-2023 and the notice of initiation of recovery proceedings dated 20-9-2023 as illegal, arbitrary, high handed, without authority of law and jurisdiction, in violation of principles of natural justice, contrary to the provisions of the Act and hopelessly time barred and set aside the same.

IA NO: 1 OF 2023

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 to grant stay of all further proceedings including any recovery proceedings through coercive methods in pursuance of the impugned order of the 1st respondent dated 2-2-2022 for the assessment year 2018-19 under CGST /APGST Act 2017 and the consequential garnishee notice dated 15-5-2023 and the notice of initiation of recovery proceedings dated 20-9-2023 pending disposal of the Writ Petition.

IA NO: 1 OF 2025

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 to suspend the Impugned reminder notice issued by the 1st respondent dated 28-06-2025 demanding payment of the disputed demand for the period April 2018 to March 2019 pending disposal of the writ petition.

Counsel for the Petitioner : V SIDDHARTH REDDY

Counsel for the Respondent Nos.1 to 3 : GP FOR COMMERCIAL TAX

The Court made the following ORDER :



IN THE HIGH COURT OF ANDHRA PRADESH

AT AMARAVATI

[3541]

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF JULY

TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

WRIT PETITION NO: 27416/2023

Between:

1. GODAVARI POLYMERS PRIVATE LIMITED, REP. BY ITS
MANAGING DIRECTOR MR. C. VENKATESHWAR RAO
D.NO.12-12-43, 1ST FLOOR, PADI STREET, ONE TOWN,
VIJAYAWADA, KRISHNA DISTRICT, ANDHRA PRADESH.

...PETITIONER

AND

1. THE COMMERCIAL TAX OFFICER, PARK ROAD CIRCLE,
VIJAYAWADA, KRISHNA DISTRICT, ANDHRA PRADESH.

2. THE CHIEF COMMISSIONER OF STATE TAX, GOVERNMENT
OF ANDHRA PRADESH, DNO.5-59, BANDAR ROAD, R.K.
SPRING VALLEY APARTMENTS, EDUPUGALLU, VIJAYAWADA,
ANDHRA PRADESH 521151

3. STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL
SECRETARY (REVENUE)(GST) DEPARTMENT, SECRETARIAT
BUILDING, VELAGAPUDI, AMARAVATHI, GUNTUR 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 topleased to issue an appropriate writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in passing the impugned assessment order dated 2-2-2022 for the assessment year 2018-19 under CGST /APGST Act 2017 and the consequential garnishee notice

dated 15-5-2023 and the notice of initiation of recovery proceedings dated 20-9-2023 as illegal, arbitrary, high handed, without authority of law and jurisdiction, in violation of principles of natural justice, contrary to the provisions of the Act and hopelessly time barred and set aside the same and pass

IA NO: 1 OF 2023

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 to grant stay of all further proceedings including any recovery proceedings through coercive methods in pursuance of the impugned order of the 1st respondent dated 2-2-2022 for the assessment year 2018-19 under CGST /APGST Act 2017 and the consequential garnishee notice dated 15-5-2023 and the notice of initiation of recovery proceedings dated 20-9-2023 pending disposal of the Writ Petition and to pass

IA NO: 1 OF 2025

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 to suspend the Impugned reminder notice issued by the 1st respondent dated 28-06-2025 demanding payment of the disputed demand for the period April 2018 to March 2019 pending disposal of the writ petition and pass

Counsel for the Petitioner:

1.V SIDDHARTH 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 has approached this Court challenging the impugned order passed by the 1st respondent, dated 02.02.2022, in Form GST DRC-07 garnishee notice, dated 15.05.2023, and notice issued under Section 78 of GST/SGST Act, 2017, dated 20.09.2023 for the assessment period April, 2018 to March, 2019. Various grounds were

raised, in challenge of the impugned proceedings. A Division Bench of this Court had earlier granted time on 01.11.2023 to the learned Government Pleader for Commercial Taxes for filing counter.

2. No counter has been filed till date.

3. Sri V. Siddarth Reddy, learned counsel for the petitioner would contend that the writ petition can be disposed of on the short ground that the impugned proceedings do not contain a DIN number nor signature and as such, the order would have to be set aside following the earlier orders of this Court.

4. A perusal of the impugned assessment order dated 02.02.2022 would show that there is no DIN attached to the said order. The summary of the order, dated 01.02.2022, also does not have any DIN attached to the said order.

5. The effect of the absence of the signature, on an assessment order was earlier considered by this Court, in the case of **A.V. Bhanoji Row Vs. The Assistant Commissioner (ST)**, in W.P.No.2830 of 2023, decided on 14.02.2023. A Division Bench of this Court, had held that the signature, on the assessment order, cannot be dispensed with and that the provisions of Sections-160 & 169 of the Central Goods and Service Tax Act, 2017, would not rectify such a defect. Following this Judgment, another Division Bench of this Court, in the case of **M/s. SRK**



Enterprises Vs. Assistant Commissioner, in W.P.No.29397 of 2023, decided on 10.11.2023, had set aside the impugned assessment order.

6. Another Division Bench of this Court by its Judgment, dated 19.03.2024, in the case of **M/s. SRS Traders Vs The. Assistant Commissioner ST & ors**, in W.P.No.5238 of 2024, following the aforesaid two Judgments, had held that the absence of the signature of the assessing officer, on the assessment order, would render the assessment order invalid and set aside the said order.

7. The question of the effect of non-inclusion of DIN number on proceedings, under the G.S.T. Act, came to be considered by the Hon'ble Supreme Court in the case of **Pradeep Goyal Vs. Union of India & Ors**¹. The Hon'ble Supreme Court, after noticing the provisions of the Act and the circular issued by the Central Board of Indirect Taxes and Customs (*herein referred to as "C.B.I.C."*), had held that an order, which does not contain a DIN number would be *non-est* and invalid.

8. A Division Bench of this Court in the case of **M/s. Cluster Enterprises Vs. The Deputy Assistant Commissioner (ST)-2, Kadapa**², on the basis of the circular, dated 23.12.2019, bearing No.128/47/2019-GST, issued by the C.B.I.C., had held that non-mention of a DIN number would mitigate against the validity of such proceedings. Another Division

¹ 2022 (63) G.S.T.L. 286 (SC)

² 2024 (88) G.S.T.L. 179 (A.P.)

Bench of this Court in the case of ***Sai Manikanta Electrical Contractors Vs. The Deputy Commissioner, Special Circle, Visakhapatnam***³, had also held that non-mention of a DIN number would require the order to be set aside.

9. In view of the aforesaid judgments, the view taken by the Court was that the absence of a DIN would vitiate the proceedings.


10. As the DIN is not attached to the impugned proceedings except the proceedings of 15.05.2023, it would be appropriate to set aside the order of assessment, dated 02.02.2022, as well as the summary of the order of assessment, dated 01.02.2022. Consequently, the garnishee order notice of 15.05.2023 would also have to be set aside as the said garnishee is based on the aforesaid impugned proceedings.

11. In the circumstances, this Writ Petition is disposed of setting aside the impugned proceedings and remanding the matter back to the assessing authority for proper adjudication after adequate notice and opportunity being given to the petitioner. It would be open to the petitioner to raise all grounds on facts and law. Needless to say, the period between the date of the impugned order and the date of receipt of this order shall be excluded for the purpose of limitation. There shall be no order as to costs.

³ 2024 (88) G.S.T.L. 303 (A.P.)

As a sequel, miscellaneous petitions, pending if any, shall stand closed.

//TRUE COPY/

Sd/- M. SRINIVAS
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Commercial Tax Officer, Park Road Circle, Vijayawada, Krishna District, Andhra Pradesh.
2. The Chief Commissioner of State Tax, Government of Andhra Pradesh, DNo.5-59, Bandar Road, R.K. Spring valley Apartments, Edupugallu, Vijayawada, Andhra Pradesh 521151
3. The Principal Secretary State of Andhra Pradesh, (Revenue)(GST) Department, Secretariat Building, Velagapudi, Amaravathi, Guntur District.
4. One CC to SRI. V SIDDHARTH REDDY Advocate [OPUC]
5. One CC to SRI. GP FOR COMMERCIAL TAX Advocate [OPUC]
6. THREE CD COPIES

TAC

HIGH COURT
DATED:02/07/2025

ORDER
WP 27416/2023



DISPOSING THE WP WITHOUT COSTS