

(SHOW CAUSE NOTICE BEFORE ADMISSION) ✓
IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI ✓
(SPECIAL ORIGINAL JURISDICTION)

THURSDAY, THE TWELFTH DAY OF JANUARY, TWO THOUSAND AND TWENTY THREE ✓
:PRESENT:

THE HONOURABLE SRI JUSTICE BATTU DEVANAND ✓
AND
THE HONOURABLE DR JUSTICE V. R. K. KRUPA SAGAR ✓
WRIT PETITION No. 493 of 2023 ✓

Between :-

M/s. Krishna Sai Granites India Pvt. Ltd., Sr.No.325/1A2/1B/2A/2C, P Gudipadu(V),
S N Padu(Md), Prakasam District, A.P., Rep by its Managing Director, Mr.Sidda
Hanumantha Rao.

....Petitioner

AND

1. The Deputy Assistant Commissioner of State Tax- 1, O/o The Assistant Commissioner (ST), Ongole Circle-II, Nellore Division, Ongole-Prakasam Dist.
2. The Chief Commissioner of State Taxes, Government of Andhra Pradesh, D.No.12-468-4, Adjacent to NH-16 Service Road, Kunchanapally, Guntur Dist, Andhra Pradesh-522501.
3. The Deputy Commissioner of Central Tax, Nellore CGST Division, Nellore.
4. Union of India, Rep. By its Principle Secretary, Ministry of Finance, 3rd Floor, Jeevan Deep Building. Sansad Marg-New Delhi-110001.
5. Goods and Service Tax Council, 5th Floor, Tower-II, Jeevan Bahrathi Building, Janpath Road, Connaught Place, New Delhi-110001.
6. The State of Andhra Pradesh, Rep by its Principle Secretary, Industries, Infrastructure Investment and Commerce (Mines.1), Velagapudi, Amaravathi, Guntur District.

....Respondents

WHEREAS the Petitioner above named through its Advocate SRI K.A.S.V. Prasad, presented this 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 any order or direction more particularly one in the nature of Writ of Mandamus or any other appropriate writ or order or direction declaring (a) the Order of detention Proceedings of the 1st respondent, in FORM GST MOV-06 dated 31.12.2022 for want of E-Invoice (Annexure P-1) without considering the letter of Objections dated 29.12.2022 sent through mail and physically filed on 30.12.2022(Annexure P72) in reply to the Notice inform MOV-02 dt 28.12.2022 (Annexure P-3) and also for not releasing the consignment even after found 'no variation' on Physical verification report made available in Form MOV-04 dt 28.12.2022(Annexure P-4) is against to circular instruction of the CBEC (GST Policy Wing) at para 2(g) Circular No 41/15/2018-GST dated 13.04.2018(Annexure P-5), and to the Rule 138(1) R/w Sec.129(1) of the AP State Goods and Service Tax Act 2017, and also against to all cannons of justice as arbitrary, without jurisdiction, against to the principles of natural justice and contrary to the Sec.129(3) of the AP State Goods and Service Tax Act 2017, (herein after referred to as 'the Act') (b) to declare the 1st respondent as not the 'proper officer' notified U/Sec 4 of the IGST Act, 2017 to enquire the export transaction as arbitrary,

without jurisdiction, against to the principles of natural justice and the proceedings of the 1st respondent is liable to be set aside void ab initio.

AND WHEREAS the High Court upon perusing the petition and affidavit filed herein and upon hearing the arguments of Sri K.A.S.V. PRASAD, Advocate for the Petitioner and of the Govt. Pleader for Taxes for respondent Nos. 1 and 2 and of Sri Suresh Kumar Routhu, Senior Standing Counsel for respondent Nos. 3 and 5 and of Smt Vijaya Kumari, Standing Counsel for respondent No.4, directed issue of notice to the Respondents herein to show cause as to why this WRIT PETITION should not be admitted.

You viz:

- 1.The Deputy Assistant Commissioner of State Tax- 1, O/o The Assistant Commissioner (ST), Ongole Circle-II, Nellore Division, Ongole-Prakasam Dist.
- 2.The Chief Commissioner of State Taxes, Government of Andhra Pradesh, D.No.12-468-4, Adjacent to NH-16 Service Road, Kunchanapally, Guntur District, Andhra Pradesh-522501.
- 3.The Deputy Commissioner of Central Tax, Nellore CGST Division, Nellore.
- 4.The Principal Secretary, Ministry of Finance, Union of India, 3rd Floor, Jeevan Deep Building. Sansad Marg-New Delhi-110001.
- 5.Goods and Service Tax Council, 5th Floor, Tower-II, Jeevan Bahrathi Building, Janpath Road, Connaught Place, New Delhi-110001.
- 6.The Principal Secretary, Industries, Infrastructure Investment and Commerce (Mines.1), State of Andhra Pradesh, Velagapudi, Amaravathi, Guntur District.

are directed to show cause either appearing in person or through an advocate as to why in the circumstances set out in the petition and the affidavit filed therewith (copy enclosed) this WRIT PETITION should not be admitted within four weeks.

The Court made the following ORDER :-

“Notice before admission.

✓Learned Government Pleader for Taxes takes notice for the Respondent Nos. 1 and 2.

✓Sri Suresh Kumar Routhu, learned Senior Standing Counsel for the CBIC, takes notice for the respondent Nos. 3 and 5.

✓Smt Vijaya Kumari, learned Standing Counsel, takes notice for the respondent No.4.

✓Learned Government Pleader for Industries takes notice for the respondent No.6 and sought time to file Counter Affidavit.

Post after four weeks.”

//TRUE COPY//

Sd/- S. SRINIVASA PRASAD
ASSISTANT REGISTRAR

SECTION OFFICER

Contd..3...

To

1. The Deputy Assistant Commissioner of State Tax- 1, O/o The Assistant Commissioner (ST), Ongole Circle-II, Nellore Division, Ongole-Prakasam Dist.
2. The Chief Commissioner of State Taxes, Government of Andhra Pradesh, D.No.12-468-4, Adjacent to NH-16 Service Road, Kunchanapally, Guntur District, Andhra Pradesh-522501.
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5. Goods and Service Tax Council, 5th Floor, Tower-II, Jeevan Bahrathi Building, Janpath Road, Connaught Place, New Delhi-110001.
6. The Principal Secretary, Industries, Infrastructure Investment and Commerce (Mines.1), State of Andhra Pradesh, Velagapudi, Amaravathi, Guntur District.
(Addressee Nos. 1 to 6 by RPAD along with a copy of Petition & Affidavit)
7. Two CCs to the G.P. for Taxes, High Court of A.P., at Amaravati(OUT)
8. One CC to Sri K.A.S.V. Prasad, Advocate(OPUC)
9. One CC to Sri Suresh Kumar Routhu, Standing Counsel(OPUC)
10. One C to Smt Vijaya Kumari, Standing Counsel(OPUC)
11. Two spare copies.

TKK

HIGH COURT

DEV,J & VRKS,J

DT.12-01-2023.

NOTICE BEFORE ADMISSION

W.P.No. 493 of 2023

