

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

THURSDAY ,THE FOURTEENTH DAY OF NOVEMBER  
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE G.NARENDAR  
AND

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 5753 OF 2024



Between:


1. The Sr Superintendent Of Post Offices, Mr. M. Narasimha Swamy,  
Vijayawada Division, Vijayawada - 520 001.
2. The Sr. Postmaster, Head Post Office, Vijayawada HO- 520 001.

...PETITIONER

AND

1. The Union Of India, Rep. by its Revenue Secretary, Ministry of Finance,  
Department of Expenditure, Room No.76, New Delhi-110 001
2. Commissioner of Central Tax, GST Bhavan, Central Revenues Building,  
Kannavari Thota, Guntur- 522 004.
3. The Commissioner of Central Excise (Appeals), Central Revenue  
Building, D.No.3-30-15, Ring Road, Guntur-522 006
4. The Superintendent (Appeals), Office of the Commissioner of Central  
Excise (Appeals), Central Revenue Building, D.No.3-30-15, Ring Road,  
Guntur-522 006

...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 more particularly in the form of Writ of Mandamus declaring the action of the Respondents, particularly, the Respondent No.2 i.e.. Commissioner of Tax, GST Bhavan Central Revenues Building, Kannavarithota, Guntur in imposing a wherein (i) Demand of Rs.2,79,14,479/- u/s 73(2) of Fin. Act, 1994, (ii) Penalty of Rs.2,79,14,479/- under Sec. 78 of Fin.Act,1994 and (iii) Penalty of Rs. 10,000/- u/s 77(2) of Finance Act, 1994 and is also imposed by way of Order In Original No. V/ST/15/59/2019-Adj dated 31.03.2022 is illegal, without jurisdiction, arbitrary, violative of principles of natural justice, without authority of law, and violative of Article 14 and Article 19(l)(g) of the Constitution of India.

**IA NO: 1 OF 2024**

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 operation of the orders & consequent recovery issued vide Respondent No.2 order no. V/ST/15/59/2019-Adj dated 31.03.2022, wherein Service Tax of (i) wherein (i) Demand of Rs.2,79,14,479/- u/s 73(2) of Fin. Act, 1994, (ii) Penalty of Rs.2,79,14,479/- under Sec. 78 of Fin.Act, 1994 & (iii) Penalty of Rs. 10,000/- u/s 77(2) of Finance Act, 1994 in the interest of justice.

**Counsel for the Petitioner(s): SRI. VENNA HEMANTH KUMAR (CENTRAL GOVERNMENT COUNSEL)**

**Counsel for the Respondent No.1: SRI PASALA PONNA RAO, DEPUTY SOLICITOR GENERAL OF INDIA**

**Counsel for the Respondent Nos.2 to 4: SRI Y N VIVEKANANDA, SC FOR CENTRAL TAX**

**The Court made the following: ORDER**

HON'BLE SRI JUSTICE G.NARENDAR

AND

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

WRIT PETITION No.5753 of 2024

**ORDER:-** (per Hon'ble Sri Justice G.Narendar)

1. Heard Smt. V. Hemanth Kumar, learned Central Government Counsel appearing for the Superintendents of Post Offices in the State, i.e., the Petitioners herein and Sri. Y.N.Vivekananda, learned Sr. Standing Counsel representing the Principal Commissioner of Central Tax, Central Tax Commissionerate, Guntur-Respondents.

2. The issue involved in this Writ Petition is the levy and non-payment of service tax. The said levy was opposed on the ground that it was only a book adjustment. Thus, the matter resulted in an assessment and levy by an order, dated 31.03.2023, which order in original is impugned in the Writ Petition.

3. As the petitioner is also a limb of the Union Government and the issues involved were, in our prima facie opinion, appearing to be superficial. The issues involved or rather canvassed before the Court, is one of non-observation of the principles of natural justice.



4. The Court had suggested to the learned counsel for the respondents to secure instructions as to whether the issue could be dissipated in an amicable manner, as the entities involved were mere branches of the Union Government.

5. The counsel for the respondent has filed into the Registry an additional affidavit of one Sri.S.Narasimha Reddy, S/o. S. Prathapa Reddy, presently discharging duties as Commissioner of Central Tax, Guntur CGST Commissionerate, Guntur, wherein, it is deposed as under in paragraph Nos.5,6 and 7:

"5. In this regard, it is to submit that the respondent No.2 had addressed a letter to the CBIC, New Delhi through the Chief Commissioner, Customs & Central Tax, Visakhapatnam Zone for clarification in the matter.

6.The CBIC vide letter dated 09.10.2024 (copy enclosed) has advised the respondent No.2 to request the Hon'ble Court to remand all the cases filed by the Head Post Offices falling under the Guntur CGST jurisdiction to the original authority for re-adjudicating the matter.

7.Therefore, in terms of the instructions received this Additional affidavit is being filed with a prayer that the Hon'ble High Court may be pleased to remand the Writ Petitions filed by the Head Post Officers to the original adjudicating authority for re-adjudication of the issue in the light of the Board's latest instructions."

6. The additional affidavit is deposed on the strength of the instructions issued by the CBIC, New Delhi. The learned counsel for the petitioners also consented of a remand of all the cases to the competent authority.

7. In that view of the matter, the additional affidavit is taken on record.

8. The consent by the learned counsel for the petitioners and respondents is placed on record and the Writ Petition is disposed of by setting aside the order and remanding back the same to the adjudicating authority for consideration and disposal, in accordance with law.

9. Accordingly, the Writ Petition, stands disposed of. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

//TRUE COPY//

Sd/- M SRINIVAS  
ASSISTANT REGISTRAR  
  
SECTION OFFICER

To,

1. The Revenue Secretary, Ministry of Finance, Department of Expenditure, Room No.76, Union Of India New Delhi-110 001
2. Commissioner of Central Tax, GST Bhavan, Central Revenues Building, KannavariThota, Guntur- 522 004.
3. The Commissioner of Central Excise (Appeals), Central Revenue Building, D.No.3-30-15, Ring Road, Guntur-522 006
4. The Superintendent (Appeals), Office of the Commissioner of Central Excise (Appeals), Central Revenue Building, D.No.3-30-15, Ring Road, Guntur-522 006
5. One CC to Sri. Venna Hemanth Kumar, (Central Government Counsel) Advocate [OPUC]
6. One CC to Sri. Pasala Ponna Rao, Deputy Solicitor General of India [OPUC].
7. Three CD Copies

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**HIGH COURT**

**DATED:14/11/2024**

**ORDER**

**WP.No.5753 of 2024**



**DISPOSING OF THE WP WITHOUT COSTS**