

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI  
(SPECIAL ORIGINAL JURISDICTION)  
TUESDAY, THE FIFTH DAY OF MARCH,  
TWO THOUSAND AND TWENTY FOUR



:PRESENT:

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI  
AND

THE HONOURABLE SRI JUSTICE HARINATH.N  
WP 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.

...Petitioners

**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, 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

...Respondents

Petition under Article 226 of the Constitution of India is filed 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 Central Revenues Building, Kannavarithota, Guntur in imposing a wherein (i) Demand of of Central Tax, GST Bhavan, 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 is filed 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 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, pending disposal of WP 5753 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 upon hearing the arguments of Sri Venna Hemanth Kumar, (CENTRAL GOVERNMENT COUNSEL) Advocate for the Petitioners and Sri Jupudi V.K.Yagnadutt, learned Central Government Standing Counsel for the Respondent No.1 and Ms.Santhi Chandra, learned Junior Standing Counsel for CBIC for the Respondent Nos.2 to 4, the Court made the following;

**ORDER:**

“Heard learned counsel representing Sri V.Hemanth Kumar, learned Central Government Counsel for the petitioners and Sri Jupudi V. K. Yagnadutt, learned Central Government Standing Counsel for the respondent No.1 and Ms. Santhi Chandra, learned Junior Standing Counsel for C.B.I.C. for the respondent Nos.2 to 4.

2. Learned counsel for the parties submits that with respect to the similar controversy, W.P.Nos.4844 of 2024, 4845, 5061 and 5063 of 2024 are pending which are fixed for 15.03.2024. Time has been granted to the learned Junior Standing Counsel for C.B.I.C. to obtain instructions. They submit that same order may be passed in the present case also.

3. The following order was passed in W.P.No.4844 of 2024:-

*“While challenging the impugned order dated 10.06.2022, the petitioner No.1, the Superintendent of Post Offices, Guntur Division, Guntur, learned counsel for the petitioners submits that in passing the impugned order, the circular No. Pr.CCA/CBIC/GST&IT/OG/Misc/2015-16/551, dated 24.10.2019 of the Ministry of Finance, has not been taken into consideration. He submits that the amount of service tax has already been paid by the petitioners through book adjustment and subsequently by cheques and consequently, the impugned order again confirming the demand for the same amount for the same period is unsustainable.*

*2. Sri Yagnadutt Jupudi, learned counsel for the respondent No.1 submits that such book adjustment had taken place at the head quarter level.*

*3. Ms. Santhi Chandra, learned Junior Standing Counsel for CBIC for the respondent Nos.2 to 6 prays for time to obtain instructions.*

*4. List on 01.03.2024.*

*5. Till then, if the book adjustment has already been made and the payment has also been made by the cheques as submitted by the petitioner's counsel pursuant to the circular, no coercive action would be taken pursuant to the impugned order.”*

4. Let the instructions be obtained in this case also by the learned Standing Counsel appearing for the respondent Nos.2 to 4.

5. List on 15.03.2024, along with W.P.No.4844, 4845, 5061 & 5063 of 2024.
6. Till then, if the book adjustment has already been made and the payment has also been made by the cheques as submitted by the petitioners' counsel pursuant to the circular, no coercive action would be taken pursuant to the impugned order.
7. The petitioners are at liberty to file proof of book adjustments and payments made by cheque before the respondent No.3."

//TRUE COPY//

Sd/- SK. MD. RAFI  
ASSISTANT REGISTRAR

For A

SECTION OFFICER

To,

1. The Revenue Secretary, Union of India, Ministry of Finance, Department of Expenditure, Room No.76, New Delhi-110 001
2. The 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 (Addressee Nos.1 to 4 by RPAD)
5. One CC to Sri. Venna Hemanth Kumar (CENTRAL GOVERNMENT COUNSEL) Advocate [OPUC]
6. One CC to Sri. Jupudi V.K.Yagnadutt, Standing Counsel [OPUC]
7. One CC to Ms. Santhi Chandra, Standing Counsel [OPUC]
8. Two spare copies

MM

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HIGH COURT

RNT,J  
&  
HN,J

DATED:05/03/2024

NOTE: LIST ON 15.03.2024, ALONG WITH WP.No.4844, 4845, 5061 & 5063 OF 2024

ORDER

WP.No.5753 of 2024

DIRECTION

