



IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)

THURSDAY, THE SECOND DAY OF MAY
TWO THOUSAND AND TWENTY FOUR

:PRESENT:

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

AND

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

WRIT PETITION NO: 10239 OF 2024

Between:

M/s. Venkateswara Kirana and General Stores, 70-4-5,
Satyanivas, Ramanayyapet, Kakinada, East Godavari District, Andhra Pradesh
Rep. by its proprietor Sri. Ramakrishna Nalani, S/o Nalam Ventaramana Aged
about 51 years.

Petitioner

AND

1. The Assistant Commissioner (ST), Kakinada Circle, Kakinada, East Godavari District,
2. The Additional Commissioner (ST), Appellate Authority, Vijayawada, NTR District, Andhra Pradesh.
3. State of Andhra Pradesh, Rep by its Principal Secretary, Revenue (CT) Department, Velagapudi, Amaravathi, Guntur District, Andhra Pradesh.
4. The Branch Manager, State Bank of Hyderabad, Sarpavaram Junction, Lakshmi Complex, Kakinada-533005.

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 an appropriate writ, order or direction particularly in the nature of Writ of MANDAMUS declaring the action of the 1st respondent passing the impugned order dated 24-05-2023 in the period of COVID wherein everything got standstill and where the Honble Supreme Court and various High Courts have remitted the matter back and also the order of the 2nd respondent in dismissing the appeal though the 2nd respondent as illegal, arbitrary, unjust, improper, contrary to the Principles of Natural Justice and violative of articles 14, 19(1)(g), 21 and 265 of Constitution of India, violative of the provisions of the GST Act 2017 and consequently to direct the 1st respondent to hear the matter afresh.

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 attachment order else the Petitioner would be put to serious loss and hardship and pass, Pending disposal of WP 10239 of 2024, on the file of the High Court.

IA NO: 2 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 stay all further proceedings pursuant to the impugned order dated 24-05- 2023 pending disposal of the writ petition, Pending disposal of WP 10239 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 M V J

K KUMAR Advocate for the Petitioner(s), GP FOR COMMERCIAL TAX for the Respondent Nos. 1 to 3 and the Court made the following

ORDER

“Heard Sri M. V. J. K. Kumar, learned counsel for the petitioner.

2. The challenge is to the order dated 24.05.2023 passed by the respondent No.2.
3. Learned counsel for the petitioner submits that though the order is appealable, but the GST Appellate Tribunal has not been constituted and consequently, he is preferring the writ petition. He further submits that the petitioner is ready to comply with the principal conditions under Section 112 for filling of the appeal.
4. He further submits that with respect to the controversy of the similar nature, many writ petitions have been filed before this Court and in one of those petitions, being the batch of W.P.Nos.5660, 5671 and 5672 of 2022 while entertaining the writ petition, subject to the petitioner therein paid the amount in terms of Section 112(8)(b) of the G.S.T. Act, the operation of the orders impugned therein were stayed.
5. Learned counsel for the petitioner submits that by the notice dated 28.12.2023 (Ex.P3), the Assistant Commissioner (ST), the respondent No.1 has directed the Branch Manager, State Bank of Hyderabad, the respondent No.4, to realise the amount under the impugned order from the accounts of the petitioner. He submits that the Bank amount has been attached pursuant to the said communication.
6. Learned Government Pleader for Commercial Tax appearing for the respondents submits that the same order may be passed in the present writ petition also.
7. Let the counter affidavit be filed within a period of six (06) weeks.
8. List after six (06) weeks.

9. In the meantime, in the present case also, subject to the petitioner paying the amount in terms of the Section 112(8)(b) of the G.S.T. Act operation of the impugned order shall remain stayed.

10. The amount directed to be paid shall be deposited within a period of six (06) weeks from today. In default, the stay shall stand vacated without any further reference to the Court and it will be open for the authorities to proceed as per law.

11. It is further provided that, on making the aforesaid deposit, and the proof thereof being furnished, the attachment shall be lifted but the petitioner shall maintain sufficient balance in the account, presently under attachment, to honour the rest of the demanded amount i.e. the total demand adjusting the deposit made pursuant to this order."

//TRUE COPY//

Sd/- M. SRINIVAS
ASSISTANT REGISTRAR

For /

SECTION OFFICER

To,

1. The Assistant Commissioner (ST), Kakinada Circle, Kakinada, East Godavari District,
2. The Additional Commissioner (ST), Appellate Authority, Vijayawada, NTR District, Andhra Pradesh.
3. The Principal Secretary, The State of Andhra Pradesh, , Revenue (CT) Department, Velagapudi, Amaravathi, Guntur District, Andhra Pradesh.
4. The Branch Manager, State Bank of Hyderabad, Sarpavaram Junction, Lakshmi Complex, Kakinada-533005. (addresses 1 to 4 by RPAD)
5. One CC to SRI. M V J K KUMAR Advocate [OPUC]
6. Two CCs to GP FOR COMMERCIAL TAX ,High Court Of Andhra Pradesh. [OUT]
7. Two spare copies.



HIGH COURT

**RNT,J &
KM,J**

DATED:02/05/2024

POST AFTER SIX WEEKS

ORDER

WP.No.10239 of 2024

DIRECTION

