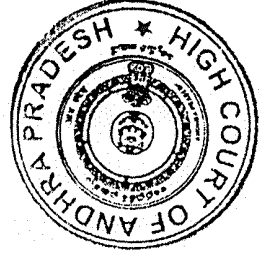


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IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY FOUR



PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
AND
THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION NO: 5238 OF 2024

Between:

M/s.SRS Traders, Plot No. 194, Phase-III, Indra Auto Nagar, Guntur - 522
001. State of Andhra Pradesh. Rep. by its Proprietor Mr.Shaik Riyaz Sharief

...PETITIONER

AND

1. The Assistant Commissioner (ST), Kothapet Circle, Guntur-II.
2. The State of Andhra Pradesh, Rep. by its Principal Secretary, Revenue (CT) Department, A.P. Secretariat, Amaravati.
3. The Union of India, Rep. by its Secretary to Government Finance Department, New Delhi

...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 Writ of Mandamus or any other appropriate Writ or Order or Direction declaring (i) the action of the 1st Respondent in passing

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the Form GST DRC-07 dated 05-06-2023 under Section 74 of the Goods and Service Tax Act 2017, levying tax of Rs.3,72,00,616/-, Interest of Rs. 1,21,90,432/- and Penalty @ 50% of tax, under the Integrated Goods and Service Tax Act, Central Goods and Service Tax Act 2017, and State Goods and Service Tax Act 2017, for the tax period 2018-19 to 2021-22 (upto October, 2021), without considering the objections filed by Petitioner dated 29.03.2023 on 03.04.2023 and 12.05.2023, without signature of the officer concerned in the Order, arbitrary, contrary to the provisions of the IGST, COST and SGST, 2017 Acts, bias, perverse, without jurisdiction not valid in the Eye of law and also the same is in violation of Principles of Natural Justice and Rule of Law, and consequently set aside the Proceedings issued by the 1st Respondent in Form GST DRC-07, dated 05.06.2023, as null and void.

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 suspend the operation of the Form GST DRC-07, dated 05.06.2023 issued by the 1st Respondent for the tax period 2018-19 to 2021-22 (upto October, 2021) under the provisions of the IGST Act, CGST Act, APGST Act 2017, pending disposal of the above Writ Petition, as otherwise, the Petitioner will be put to severe loss and hardship.

Counsel for the Petitioner(s): SRI. SHAIK JEELANI BASHA

Counsel for the Respondents 1 & 2 : GP FOR COMMERCIAL TAX

**Counsel for the Respondent No.3 : SRI G ARUN SHOWRI, SC FOR
CENTRAL GOVT. COUNSEL**

The Court made the following: ORDER

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APHC010444932023



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

[3464]

TUESDAY, THE NINETEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION NO: 5238/2024

Between:

M/s.srs Traders,

...PETITIONER

AND

The Assistant Commissioner St and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.SHAIK JEELANI BASHA

Counsel for the Respondent(S):

1.GP FOR COMMERCIAL TAX

2.G.ARUN SHOWRI(CENTRAL GOVT. COUSEL)

The Court made the following:

ORDER:- (per Hon'ble Sri Justice Ravi Nath Tilhari)

Heard Sri Shaik Jeelani Basha, learned counsel for the petitioner and learned Government Pleader for Commercial Taxes for respondent Nos.1 and 2 and Sri G.Arun Showri, learned counsels for respondent No.3.

2. With the consent of learned counsel for the parties, this writ petition is decided at this stage.
3. Learned counsel for the petitioner submits that the impugned order dated 05.06.2023 is not signed by the authority and consequently, no order in the eyes of law. The same cannot be implemented or given effective to. He submits that the matter is squarely covered by the order passed by 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.
4. Learned Government Pleader for Commercial Tax has obtained oral instructions from the authority and informed that the impugned order is not signed but was uploaded by the competent authority. He raised the same plea as was raised in **M/s.SRK Enterprises'** case (*cited supra*) relying on Section 160 and 169 of the Central Goods and Services Tax Act, 2017 (for short 'the CGST Act, 2017').
5. In **M/s.SRK Enterprises'** case (*cited supra*), this Court referred to the previous order of the Co-ordinate Bench in the case of **A.V.Bhanoji Row vs. Assistant Commissioner (ST)** in W.P.No.2830 of 2023 decided on 14.02.2023 and held that the signatures cannot be dispensed with and the provisions of Section 160 & 169 of the CGST Act, 2017 would not come to the rescue. This Court held that:

"7. On consideration of the submissions advanced and the legal provisions, we are of the view that Section 160 of CGST Act 2017 is not attracted. An unsigned order cannot be covered under "any mistake, defect or omission therein" as used in Section 160. The said expression refers to any mistake, defect or omission in an order with respect to assessment, re-assessment; adjudication etc and which shall not be invalid or deemed to be invalid by such reason, if in substance and effect the assessment, re-assessment etc is in conformity with the requirements of the Act or any existing law. These would not cover omission to sign the order. Unsigned order is no order in the eyes of law. Merely uploading of the unsigned order, may be by the Authority competent to pass the order, would, in our view, not cure the defect which goes to the very root of the matter i.e. validity of the order.

8. We are of the further view that Section 169 of CGST Act 2017 is also not attracted. Here, the question is of not signing the order and not of its service or mode of service.

9. In the case of **A. V. Bhanoji Row vs. Assistant Commissioner (ST)** in W.P.No.2830 of 2023 decided on 14.02.2023, upon which reliance has been placed by learned counsel for the petitioner (Ex.P6), a Co-ordinate Bench of this Court has held that the signatures cannot be dispensed with and the provisions of Sections 160 and 169 of CGST Act would not come to the rescue.

10. Paragraph 6 of **A. V. Bhanoji Row (supra)** is reproduced as under:-

"6. A reading of Section 160 of the Act makes it very much clear and candid that the safeguards contained therein cannot be made applicable for the contingency in the present case. Section 169 of the Act, which deals with the service of notice, enables the department to make available any decision, order, Summons, Notice or other communication in the common portal. **In the guise of the same, the signatures cannot be dispensed with.** In the considered opinion of this court, the aforesaid provisions of law would not come to the rescue of the respondent herein, for justifying the impugned action."

6. In view of the aforesaid, we allow this petition and set aside the proceedings/order issued by respondent No.1 dated 05.06.2023. The respondent authorities to pass fresh orders in accordance with law, expeditiously.

7. The Writ Petition stands allowed in part in the aforesaid terms.

No orders as to costs.

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

//TRUE COPY//

Sd/- K. TATA RAO
DEPUTY REGISTRAR

SECTION OFFICER

To,

1. The Assistant Commissioner (ST), Kothapet Circle, Guntur-II.
2. The Principal Secretary, Revenue (CT) Department, State of Andhra Pradesh, A.P. Secretariat, Amaravati.
3. The Secretary to Government Finance Department, Union of India, New Delhi
4. One CC to SRI SHAIK JEELANI BASHA Advocate [OPUC]
5. Two CCs to GP for COMMERCIAL TAX, High Court of Andhra Pradesh. [OUT]
6. One CC to G ARUN SHOWRI, SC for CENTRAL GOVT. COUNSEL [OPUC]
7. Three CD Copies

Madhu

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Pujitha

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

WEDNESDAY, THE THIRTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO
AND
THE HON'BLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

WRIT PETITION NO: 15446 OF 2024



Between:

M/s.Y.Chinna Reddy, 271846, 8th Street, Ramjinagar, Nellore-524002. SPSR
Nellore District. Rep. by its Managing Partner Mr.Y.Padma Reddy

...PETITIONER(S)

AND

1. The Deputy Assistant Commissioner (ST)-II, Nellore-I Circle, Nellore, SPSR Nellore District, A.P.
2. The Assistant Commissioner (ST), Nellore-I Circle, Nellore, SPSR Nellore District, A.P.
3. The State of Andhra Pradesh, Rep. its Principal Secretary (CT Dept), A.P. Secretariat, Amaravati. Guntur District, A.P
4. The Union of India, Rep. by its- Secretary, Ministry of Finance, North Block, New Delhi - 110 001.
5. The Central Board of Indirect Taxes and Customs, Rep. by its Chairman, Ministry of Finance, Department of Revenue, North Block, Central Secretariat, New Delhi - 100 001.

...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 Writ of Mandamus or any other appropriate Writ or Order or Direction declaring the action of the 1st Respondent in passing the Summary of the Order (DRC-07), dated 26.03.2024, levying tax of Rs.22,29,368/- under Section 74 of the COST / SGST Acts, Penalty of Rs.22,29,368/- under Section 74(8) of the COST / SGST Acts, 2017 instead

of passing Orders under Section 73 of the Acts, 2017 and Interest of Rs. 7,56,696/- under IGST / CGST / SGST Acts 2017 for the tax periods 2019-20 and 2020-21, without considering the objections of the Petitioner, dated 16.02.2024 filed on 19.02.2024, without signature of the 1st Respondent in the Show-Cause Notices in Form GST DRC- 01A dated 16.06.2023 and Form DRC-01 dated 27.06.2023 without Document Identification Number (DIN) and without granting an opportunity of personal hearing to the Petitioner, as arbitrary, contrary to law, without jurisdiction and against the Principles of Natural Justice and Rule of Law, contrary to the Article 14 and 21 of the Constitution of India, and consequently set aside the Summary of the Order in Form GST DRC-07, dated 26.03.2024 passed by the 1st Respondent.

IA NO: 1 OF 2024

Petition under Section 151 CPC 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 Summary of the Order in Form GST DRC-07, dated 31.01.2024, uploaded by the 2nd Respondent for the tax period April to August, 2018 under the IGST Act 2017 pending disposal of the above Writ Petition, as otherwise, the Petitioner will be put to severe loss and hardship.

Counsel for the Petitioner : SRI SHAIK JEELANI BASHA

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

**Counsel for the Respondent No.4 : SRI P. PONNA RAO, DEPUTY
SOLICITOR GENERAL OF INDIA**

**Counsel for the Respondent No.5 : SRI SHANTI CHANDRA,
SC FOR CBITC**

The Court made the following: ORDER



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

[3508]

WEDNESDAY, THE THIRTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO
THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM
WRIT PETITION NO: 15446/2024

Between:

M/s.y.chinna Reddy,

...PETITIONER

AND

The Deputy Assistant Commissioner Stii and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.SHAIK JEELANI BASHA

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 had suffered an Order, dated 26.03.2024, in Form DRC-07, wherein, the 1st respondent had raised tax, interest and penalty amounts against the petitioner.

2. This Order has been assailed by the petitioner before this Court by way of the present Writ Petition.

3. Apart from the merits of the case, the petitioner had contended that the Impugned Order does not contain the signature of the Assessing Officer and that it does not contain any DIN number or unique identification number.

4. Sri Shaik Jeelani Basha, learned counsel for the petitioner would submit that this Court, by its Order, dated 09.03.2024, in W.P.No.5238 of 2024, had held that the absence of the signature of the Assessing Officer on the Order of Assessment and the absence of a DIN number or unique identification number would render the said Order invalid.

5. Learned Government Pleader for Commercial Tax, on instructions, submits that the Assessment Order did not contain any DIN number or unique identification number and that the Order did not contain the signature of the Assessing Officer.

6. In the circumstances, this Writ Petition is disposed of setting aside the Impugned Order dated 26.03.2024 issued by the 1st respondent and the matter is remanded back to the Assessing Officer, for appropriate consideration of the objections raised by the petitioner, to the show-cause notice issued by the 1st respondent, and for passing orders after giving a personal hearing to the petitioner, in accordance with law. There shall be no order as to costs.

As a sequel, interlocutory applications pending, if any shall stand closed.

//TRUE COPY//

Sd/- SHAIK MOHD. RAFI
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Deputy Assistant Commissioner (ST)-II, Nellore-I Circle, Nellore, SPSR Nellore District, A.P.
2. The Assistant Commissioner (ST), Nellore-I Circle, Nellore, SPSR Nellore District, A.P.

3. The Principal Secretary (CT Dept), State of Andhra Pradesh, A.P. Secretariat, Amaravati. Guntur District, A.P.
4. The Secretary, Union of India, Ministry of Finance, North Block, New Delhi - 110 001.
5. The Chairman, Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs, North Block, Central Secretariat, New Delhi - 100 001.
6. One CC to Sri Shaik Jeelani Basha, Advocate [OPUC]
7. Two CCs to GP for Commercial Tax, High Court of Andhra Pradesh. [OUT]
8. One CC to Sri P. Ponna Rao. Deputy Solicitor General of India (OPUC)
9. One CC to Sri Shanti Chandra, SC for CBITC (OPUC)
10. Three C.D. Copies.

Cnr