

**[2022] 145 taxmann.com 4 (Andhra Pradesh)[14-09-2022]**

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**GST : Assessment order imposing penalty passed without issuing show cause notice and without waiting for statutory period of 15 days to get over after issue of notice to return defaulters was not sustainable**



**[2022] 145 taxmann.com 4 (Andhra Pradesh)**

**HIGH COURT OF ANDHRA PRADESH**

**Nandi PVC (P.) Ltd.**

**v.**

**Union of India\***

**C.PRAVEEN KUMAR AND A.V. RAVINDRA BABU, JJ.**

**W.P. NOS. 7138 AND 7192 OF 2021**

**SEPTEMBER 14, 2022**

**Penalty - Principles of natural justice - Assessment order was passed without waiting for 15 days after issuance of notice to return defaulters in terms of section 46 of CGST Act demanding tax, interest and penalty - Tax and interest were paid by assessee - Whether penalty can be imposed by way of assessment order passed in terms of section 62 of CGST Act - HELD: Penalty cannot be imposed in terms of section 62 and same is evident from assessment order - Penalty under section 122 can be imposed only as per procedure laid down in sections 73 and 74 of CGST Act - Show cause notice to recover demand in terms of section 73 was not issued before passing assessment order - Notice was served immediately without waiting for statutory period of 15 days - Assessment order was passed next day notice was issued - Assessment order imposing penalty was in violation of principles of natural justice - Impugned order was to be set aside - Matter was remanded for passing order after following prescribed procedure [Sections 46 and 62 read with sections 73 and 122 of Central Goods and Services Tax Act, 2017/Andhra Pradesh Goods and Services Tax Act, 2017] [Paras 10, 12, 13 and 15] [In favour of assessee]**

**[ORDER](#)**

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**\***In favour of assessee.