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[2023] 151 taxmann.com 395 (Andhra Pradesh)[15-12-2022]

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**GST : Where summary of assessment cum penalty and interest order issued in Form GST DRC-07 was appealable under CGST Act, 2017/APGST Act, 2017 and Writ Petition had been filed thereagainst without exhausting such appellate remedy, assessee was relegated before Appellate Authority to avail such appellate remedy**

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[2023] 151 taxmann.com 395 (Andhra Pradesh)

**HIGH COURT OF ANDHRA PRADESH**

**Bakshi Motors**

**v.**

**Assistant Commissioner, (ST)\***

**U. DURGA PRASAD RAO AND T. MALLIKARJUNA RAO, JJ.**

**WRIT PETITION NO. 40066 OF 2022**

**DECEMBER 15, 2022**

**Appeals to appellate authority - Summary assessment - Writ Jurisdiction - Period 1-4-2017 to 31-1-2021 - Since summary of assessment cum penalty and interest order issued in Form GST DRC-07 was appealable under Central Goods and Services Tax Act, 2017/Andhra Pradesh Goods and Services Tax Act, 2017 and Writ Petition had been filed without exhausting such appellate remedy, petitioner-assessee was required to be relegated before Appellate Authority to avail such appellate remedy [Section [107](#) of Central Goods and Services Tax Act, 2017/Andhra Pradesh Goods and Services Tax Act, 2017 - Article [226](#) of Constitution of India] [Paras 1, 3 to 5] [In favour of revenue]**

**G. Narendra Chetty, Adv. for the Petitioner.**

## **ORDER**

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**U.Durga Prasad Rao, J. -** In this writ petition, the petitioner seeks a Writ of Mandamus declaring that the impugned Assessment cum penalty cum Interest Order in Form DRC-07, vide RC.AEO-A5/GSTINS/01/2021, DT.19.11.2022, passed by the first respondent for the Tax Periods 2017-18 to 2020-21 (upto January, 2021), under the IGST, CGST and SGST Acts, 2017, is arbitrary, without jurisdiction, contrary to procedure, contrary to law, violative of the principles of natural justice, discriminatory, not sustainable and illegal and consequently set aside the same and to pass such other orders.

**2.** Heard the arguments of learned counsel for the petitioner and the learned Government Pleader for commercial Taxes.

**3.** Having found that the petitioner filed this writ petition against the impugned assessment order without availing the alternative remedy available to him, without expressing our view on the merits of the case, we are inclined to dispose of the writ petition affording opportunity to the petitioner to approach the appellate authority.

**4.** Accordingly, the Writ Petition is disposed of. No costs.

**5.** Consequently, miscellaneous petition, if any, pending in this writ petition shall stand closed.

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\*In favour of revenue.