

[2023] 146 taxmann.com 144 (Andhra Pradesh)/[2023] 95 GST 818 (Andhra Pradesh)/[2023] 70 GSTL 68 (Andhra Pradesh)[14-07-2022]

GST : Where assessee engaged in event management was given opportunity of raising objections but assessee never responded to notice and, hence, authorities gathered information from platform of assessee to levy penalty, since prima facie it could not be said that assessee had not conducted any event during relevant period, writ petition was to be dismissed giving liberty to assessee to approach appellate authority and avail remedy



[2023] 146 taxmann.com 144 (Andhra Pradesh)

HIGH COURT OF ANDHRA PRADESH

Vasavi Wedding and Event Planners

v.

State of Andhra Pradesh\*

SRI. C. PRAVEEN KUMAR AND SRI. TARLADA RAJASEKHAR RAO, JJ.

W.P. NO. 10250 OF 2022

JULY 14, 2022

**Demands and Recovery - Natural justice - Assessee was engaged in business of event management - Assessee claimed that due to her spouse's health she was unable to conduct events from August 2018 to January 2020 and that during Covid-19, no permission was granted to conduct functions from March 2020 to August 2021 - Hence, assessee alleged that they were not liable for tax period from 26-9-2017 to 31-3-2021 as they did not conduct any major events - Department passed assessment order dated 3-3-2022 by which assessee was levied with GST - Assessee alleged that impugned order was passed by department on basis of social media postings - HELD : Before lower authority, assessee was given opportunity of raising objections for which notice was issued - Further, another notice for personal hearing was also issued but assessee never responded - Authorities gathered information from platform of assessee which was issued for promotion of business and GST was assessed - Since, prima facie it could not be said that assessee had not conducted any event during relevant period, writ petition was to be dismissed giving liberty to assessee to approach appellate authority and avail remedy by putting forth grievances on factual aspects [Section 74, read with section 71, of Central Goods and Services Tax Act, 2017/Andhra Pradesh Goods and Services Tax Act, 2017] [Paras 7 to 10] [In favour of revenue]**

**Singam Srinivasa Rao, Ld. Counsel for the Petitioner.**

## **ORDER**

**Sri. C. Praveen Kumar, J.** - Heard Sri. Singam Srinivasa Rao, learned Counsel for the Petitioner and the learned Government Pleader for Commercial Taxes.

2. The present Writ Petition came to be filed seeking issuance of a writ of Mandamus declaring the Assessment Order, dated 3-3-2022, passed by the Second Respondent for the tax period from 26-9-2017 to 31-3-2021 under G.S.T. Act, 2017, as illegal, arbitrary and in violation of principles of natural justice.

3. The facts, which lead to filing of the present Writ Petition, are as under:-

- i. It is said that, the Petitioner is a registered taxpayer under Andhra Pradesh Goods and Services Tax Act, 2017 ['A.P.S.G.S.T. Act'], with a trade name M/s. Sri Vasavi Wedding and Event Planners and an assessee on the roles of Second Respondent. It is said that the Petitioner is engaged in the business of event management. It is said that the Effective Date of Registration ['EDR'] of the Petitioner is from 1-7-2017 and the said registration was cancelled from 1-8-2020 on the application made by the Petitioner.
- ii. It is said that, the Petitioner has filed GSTR 3B returns from July 2017 to January 2020 disclosing the taxable turnover and taxes paid.
- iii. In the month of August 2018, the husband of the Petitioner suffered a paralytic stroke and was under medical treatment at Hyderabad in a Rehabilitation Centre and, as such the Petitioner could not conduct event managements except small events up to January 2020 for livelihood. In the month of August 2020, the husband of the Petitioner again had an attack of brain paralysis and was bedridden as such no business was done. It is said that the Petitioner applied for cancellation of GST registration. It is further said that due to COVID-19 from March 2020 up to August 2021, no permission was granted to conduct functions having huge gathering except limited members.
- iv. However, pursuant to the authorization issued by the Joint Commissioner (ST), *vide* GSTIN-01, dated 5-10-2021, under section 71(1) of A.P. G.S.T. Act, the Second Respondent visited the premises of the Petitioner Firm on 5-11-2021. By that time, both the Petitioner and her husband were in Hyderabad for medical treatment of the husband of the Petitioner. It is said that the Petitioner gave a statement, dated 1-12-2021, to the Second Respondent explaining the above facts and also furnishing details of turnovers disclosed in GSTR 3B returns from July 2017 to March 2020. While so, the Second Respondent issued a Show Cause Notice, dated 6-1-2022, proposing to levy IGST of Rs 18,00,000/-, CGST of Rs 26,55,000/- and SGST of Rs 26,55,000/-, for conducting major Events by the Petitioner and her husband.
- v. Pursuant to the Show Cause Notice, the husband of the Petitioner appeared before the Second Respondent on 10-2-2022 and obtained copies of the Facebook documents available with the Second Respondent and requested 10 days time to submit reply. Though the husband of the Petitioner explained to Second Respondent that they have not conducted any events in respect of documents available on Facebook and that the documents were uploaded only for advertisement purpose, and requested the Second Respondent to make available the information, if any, conducted by them with other documentary evidence, however the Second Respondent did not provide any such information except the Facebook documents. It is said that, as the husband of the Petitioner again fallen ill and was taken to Hyderabad for treatment; reply could not be submitted within the said 10 days.
- vi. It is said that, though the husband of the Petitioner brought to the notice of the Second and Third Respondents that due to COVID-19 1st and 2nd wave, no events were conducted from March 2020 to July 2021 and that from July 2021 onwards events were permitted with limited persons; levying of tax from March 2020 to March 2021 is not justified and requested to drop proposed levy of tax. But, the Second Respondent without waiting for the explanation of the Petitioner, passed an Assessment Order, dated 3-3-2022, confirming the levy of I.G.S.T. of Rs.18,00,000/-, C.G.S.T. and S.G.S.T. of Rs 26,55,000/-, respectively. It is said that the action of the Second Respondent in passing the Assessment Order without receiving objections from the Petitioner as arbitrary, illegal and against the principles of natural justice.
- vii. It is also said that the Audit Officer without following the procedure contemplated under Sections 71 & 74 of A.P. G.S.T. Act, and without giving an opportunity to the Petitioner to file objections, passed the Assessment Order. Thus, Second and Third Respondent have arbitrarily levied tax for the period from 7-3-2020 to 31-3-2021.

4. Sri. Singam Srinivasa Rao, learned Counsel for the Petitioner, mainly submits that, the Order passed by the Second Respondent without providing an opportunity of hearing, is in violation of principles of natural justice. He further submits that, the Assessment Order passed by the Second Respondent is purely based on Facebook details and social media postings. In other words, his argument appears to be that, without any event being conducted by the Petitioner, the Authorities have burdened him with liability. Though, other grounds are

referred to by the Petitioner, but the learned Counsel for the Petitioner mainly pressed the two grounds, referred to above.

5. The same is opposed by the learned Government Pleader for Commercial Taxes, stating that many factual aspects are involved, which are required to be adjudicated by the Tribunal and definitely not by this Court under Article 226 of the Constitution of India. He further submits that, from the personal window of the Petitioner, information has been gathered, which clearly indicate that the Petitioner has conducted many events, the details of which were shown in the said platform.

6. The point that arises for consideration is, whether the Petitioner is entitled for the relief claimed?

7. Insofar as the first contention raised, that the Petitioner was not heard and no opportunity was given to him, may not be correct, for the reason that, a perusal of the Order shows that the Petitioner was given the opportunity of raising objections to the notice issued. It also shows that, a notice for personal hearing was also issued, pursuant to which, the Petitioner sought additional time, which was also granted, but the Petitioner never responded thereafter. Therefore, it cannot be said that, there was any violation of principles of natural justice.

8. Coming to the second contention i.e., the Assessment Order came to be passed by the Second Respondent basing on Facebook details and social media postings. A perusal of the Order impugned, prima facie, show that the authorities gathered information from the platform of the Petitioner, which is used for promotion of business and basing on that G.S.T. was assessed. The same is as under:

Sl.	Date of event	Place of event	Turnover proposed (In Rs.)	IGST @ 18%	CGST Tax @9%	SGST Tax @9%
1.	08-10-2017	A Plus Convention Centre	4000000	0	360000	360000
2.	26-09-2017	Marriage Event @ Hyderabad	3000000	540000	0	0
3.	26-11-2017	1st birthday event in Grand Minerva	1000000	0	90000	90000
4.	24.02.2018	Pasupu event at Bangalore	1000000	180000	0	0
5.	12.03.2021	Marriage event at A Plus Convention Centre	4500000	0	405000	405000
6.	25.03.2021	Reception at A Convention Centre	2000000	0	180000	180000
7.	02.10.2019	Annual annadanam on Gandhi Jayanthi	1000000	0	0	0
8.	07.03.2020	Prewedding function	1000000	0	90000	90000
9.	13.12.2020	Wedding reception	2000000	0	180000	180000
10.	18.12.2020	Pre wedding get-together at Guntur	2000000	0	180000	180000
11.	21.12.2020	Wedding event at Vijayawada	3000000	0	270000	270000
12.	03.01.2021	High profile wedding event at Hyderabad	6000000	1080000	0	0
13.	03.01.2021	Pasupu ceremony at Gollapudi	1000000	0	90000	90000
14.	10.01.2021	Wedding reception at Satya Sai Kalyanama ntapam	2500000	0	225000	225000
15.	13.01.2021	First birthday celebration of Sriram Hitamsh at Amaravathi Convention Vijayawada	2000000	0	180000	180000
16.	23.03.2021	First birthday celebration of Viraj, Vijayawada	2000000	0	180000	180000
17.	25.03.2021	First birthday celebration, baby	1500000	0	135000	135000
				1800000	2565000	2565000

**9.** In view of the above, prima facie it cannot be said that the Petitioner has not conducted any event during the relevant period.

**10.** Hence, we do not want to go into these factual aspects and, accordingly, the Writ Petition is dismissed giving liberty to the Petitioner to approach the Appellate Authority and avail the remedy by putting forth the grievances on the factual aspects. It is made clear that any observations made in this order are only for the purpose of passing this order and the same shall not influence the Appellate Authority while deciding the matter, in case any Appeal is filed. No order as to costs.

**11.** Consequently, miscellaneous petitions, if any, pending shall stand closed.

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\*In favour of revenue.