

[2023] 146 taxmann.com 575 (Andhra Pradesh)/[2023] 70 GSTL 270 (Andhra Pradesh)/[2023] 96 GST 258 (Andhra Pradesh)[18-10-2022]

**GST : Writ jurisdiction against assessment order could not be exercised where an effective alternate remedy of appeal by raising issue of lack of jurisdiction and violation of natural justice principles before Appellate Authority, was available**

■ ■ ■

[2023] 146 taxmann.com 575 (Andhra Pradesh)

**HIGH COURT OF ANDHRA PRADESH**

**Abhijeet Ferrotech Ltd.**

**v.**

**Assistant Commissioner (ST)\***

SRI M. GANGA RAO AND SRI T. MALLIKARJUNA RAO, JJ.

WRIT PETITION NO. 33895 OF 2022

OCTOBER 18, 2022

**Appeals to Appellate Authorities - Writ jurisdiction - Petitioner assessee filed instant petition challenging assessment order passed against him under GST law on ground of lack of jurisdiction and violation of natural justice principles in passing said order - In view of fact that alternate remedy of appeal under said law existed, writ jurisdiction could not be exercised and petitioner was given liberty to file appeal before Appellate Authority and raise its contentions before said Authority [Section [107](#) of Central Goods and Services Tax Act, 2017/Andhra Pradesh Goods and Services Tax Act, 2017 - Article [226](#) of Constitution of India] [Para 5] [In favour of revenue]**

**Circulars and Notifications :** [Circular No. 31/05/2018-GST, dated 9-2-2018](#) and [Circular No. 169/01/2022, dated 12-3-2022](#)

**Sri. A. Sarveswar Row**, *Ld. Counsel for the Petitioner.* **Sri. Suresh Kumar Rowthu**, *Ld. Sr. Standing counsel for the Respondent.*

## **ORDER**

**M. Ganga Rao, J.** - Challenging the assessment order passed by the 1st respondent in A.O.No.ZH370722OD69273, dated 18.07.2022, as illegal, arbitrary, without jurisdiction and contrary to the provisions of Section 4 of the IGST Act read with section 5 of the Central Goods and Services Tax Act, 2017, & the Circular No.31/05/2018-GST, dated 09.02.2018, as amended by the Circular No.169/01/2022 dated 12.03.2022 and against the principles of natural justice, the present writ petition came to be filed.

**2.** Heard Sri A. Sarveswar Row, learned counsel for the petitioner, Sri Suresh Kumar Rowthu, learned senior standing counsel appearing for the 3rd respondent and learned Government Pleader for Commercial Taxes appearing for the respondents 1 & 2.

**3.** Learned counsel for the petitioner, having drawn the attention of this Court to the relevant provisions of the IGST Act and CSGT Act, and taken this Court to the material papers filed along with the writ petition, raised various contentions stating that the impugned order has been passed by the 1st respondent without jurisdiction and therefore the same is non-est in law and further contended that the same is passed without giving opportunity to the petitioner to submit its objections to the show cause notice, which is violative of the principles of natural justice.

4. Learned Government Pleader and learned standing counsel appearing for the respondents 1 to 3 submits that against the impugned order an effective alternative remedy of appeal is provided to the appellate authority under section 107 of CGST Act, and only to avoid payment of the statutory deposit of 10% of the demanded tax, to prefer the appeal, without availing the said effective remedy of appeal, approached this Court on the ground that there is gross violation of the principles of natural justice, and the grounds raised in the writ petition can as well be raised before the appellate authority.

5. In view of the submissions made by learned Government Pleader and standing counsel, without going into merits of the matter, this Court, in the interests of justice, felt it appropriate to dispose of the writ petition giving liberty to the petitioner to approach the appellate authority provided under Section 107 of the CGST Act. It is left open to the petitioner to raise all the grounds raised in the writ petition before the appellate authority.

6. The Writ Petition is accordingly disposed of. No order as to costs.

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

MADAN

---

\*In favour of revenue.