

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

**HONOURABLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HONOURABLE SRI JUSTICE P. KESHA RAO**

Writ Petition No.44073 of 2018

Between:

M/s. RCM Cargo Mover and Company, represented
by its Proprietor, Sri Raju Chandra Murthy Maduraveetu,
S/o late M.R. Raju, Malkajigiri, Hyderabad

... Petitioner

And

The Commissioner of Central Tax, Central Excise
and Service Tax Medchal GST Commisionerate,
Hyderabad and another

... Respondents

! Counsel for the Petitioner : Mr. S. Syam Sunder Rao

^ Counsel for Respondents : Mr. B. Narasimha Sarma, Senior
Standing counsel

HONOURABLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE P. KESHA RAO

Writ Petition No.44073 of 2018

ORDER: *(per V. Ramasubramanian, J)*

Aggrieved by an Order-in-Original passed by the 2nd respondent, under Section 73 (2) of the Finance Act, 1994 read with Section 174 of the Central Goods and Service Tax (CGST) Act, 2017, the assessee has come up with the above writ petition.

2. Heard Mr. S. Syam Sunder Rao, learned counsel for the petitioner. Mr. B. Narasimha Sarma, learned senior standing counsel takes notice for the respondents.

3. It is seen from the impugned order that the petitioner was issued with a show cause notice and the petitioner filed their reply. Therefore, there is sufficient compliance with the principles of natural justice.

4. The grievance of the petitioner is that a part of the claim was clearly barred by limitation. But, it appears that the bar of limitation is not borne out of admitted facts. There is some area where an adjudication is necessary on facts to clear the air of suspicion.

5. Whenever a point of limitation is raised both on facts and in law, the alternative remedy cannot be by-passed.

6. According to the petitioner, the services rendered by them are covered by a Railway Circular, but it is a matter which the

petitioner can as well raise in the statutory appeal. Therefore, leaving it open to the petitioner to move the Appellate Authority, the writ petition is dismissed. No costs.

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

V. RAMASUBRAMANIAN, J

P. KESHA RAO, J

Date: 18-12-2018

Ksn

