

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE THE CHIEF JUSTICE UJJAL BHUYAN
AND
THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION NO: 46542 OF 2022

Between:

Neha Diagnostic Services, 3-8/1, Ground Floor, Beside Kotak Mahindra Bank, Pillar No. A1557, Chaitanyapuri, Dilsuknagar, Hyderabad- 500036, Rep. by its Partner, Dr.Reddappagari Ravindra Reddy, S/o Late Reddappagari Venkata Rami Reddy. Aged about 53 years.

...PETITIONER

AND

1. Union of India, rep by its Secretary, Government of India Ministry of Finance, 3rd Floor Jeevan Deep Building, Sansad Marg New Delhi.110 001.
2. The Deputy Commissioner, Central Tax Saroornagar CGST Division, Ranga Reddy

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ or Direction or an Order more particularly one in the nature of WRIT OF MANDAMUS to declare the proceedings in C.No. IV/16/745/2020-Adjn/1305/2022 dated 15-11-2022 (Order in Original No.254/2022-Adjn (DC)-ST) issued by the 2nd respondent whereby confirming the demand of Rs.13,89,344/- imposing penalty of Rs.13,89,344/- and Rs.10,000/- though the petitioner is exempted from the Service Tax and without examining the certain documents as being illegal, arbitrary, unconstitutional, without following due process of law, contrary to the provisions of Central Goods and Services Act 2017 and violative of Article 12, 14, 21 of the constitution of India and consequently set-aside the impugned proceedings dated 15-11-2022.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the proceedings in C.No.IV/16/745/ 2020- Adjn/1305/2022 dated 15-11-2022 (Order in Original No.254/2022-Adjn (DC)-ST) issued by the 2nd respondent , pending disposal of the main writ petition.

Counsel for the Petitioner: SMT. S MADHAVI .

**Counsel for the Respondent No.1: SRI. B. MUKHERJEE FOR SRI.GADI
PRAVEEN KUMAR (Dy. SOLICITOR GENERAL OF INDIA)**

**Counsel for the Respondent No.2:MS. K. MAMATA CHOUDARY, FOR SRI. B.
NARASIMHA SARMA**

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN

AND

THE HON'BLE SRI JUSTICE C.V.BHASKAR REDDY

WRIT PETITION No.46542 of 2022

ORDER: *(Per the Hon'ble the Chief Justice Ujjal Bhuyan)*

Heard Ms. S.Madhavi, learned counsel for the petitioner and Mr. B.Mukherjee, learned counsel representing Mr. Gadi Praveen Kumar, learned Deputy Solicitor General of India for respondent No.1. We have also heard Ms. K.Mamata Choudary, learned counsel representing Mr. B.Narasimha Sarma, learned Standing Counsel for respondent No.2.

2. By filing this petition under Article 226 of the Constitution of India, petitioner has assailed legality and validity of the order-in-original dated 15.11.2022 passed by the 2nd respondent confirming demand of Rs.13,89,344.00 under Section 73(2) of the Finance Act, 1994 besides levy of interest and equivalent amount of penalty.

3. We find that petitioner had responded to the show cause notice and made written submissions. Therefore, it is

not a case of violation of principles of natural justice. Against the order-in-original, petitioner has the remedy of filing appeal under Section 85 of the Finance Act, 1994 read with Section 35-F of the Central Excise Act, 1944.

4. That being the position, petitioner may file appeal before the appellate authority under the aforesaid provision.

5. Writ Petition is accordingly dismissed. However, there shall be no order as to costs.

6. Miscellaneous applications pending, if any, in this Writ Petition shall stand closed.

//TRUE COPY//

SD/-P.NAGABHUSHAMBA
ASSISTANT REGISTRAR
SECTION OFFICER

To,
1. One CC to Ms. S. Madhavi, Advocate [OPUC]
2. One CC to Sri. B. Narasimha Sarma, Advocate, [OPUC]
3. One CC to Sri. Gadi Praveen Kumar (Dy. Solicitor General of India) [OPUC]
4. Two CD Copies
TJ
SW
Fr

HIGH COURT

DATED:30/12/2022



ORDER

WP.No.46542 of 2022

DISMISSING THE W.P.
WITHOUT COSTS.

G. S. S. S.
19/1/23