IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

(Special Original Jurisdiction)

TUESDAY, THE NINTH DAY OF JANUARY

TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

AND

THE HON'BLE SRI JUSTICE HARINATH NUNEPALLY

WRIT PETITION NO: 14497 OF 2023

Between:

M. S. P. GRANITES, Rep. by its Sole Proprietor, Mr. M S Palanivel, D.No. 2-50, Vamsadhara Colony, Tekkali Town and Mandal, Srikakulam District, 532203

...PETITIONER

AND

1. The Assistant Commissioner (ST), Srikakulam Circle, Srikakulam.
2. The Regional Vigilance and Enforcement Officer, Srikakulam, Srikakulam District.
3. The Director of Mines and Geology, 5th and 6th floors, Sri Anjaneya Towers, Ibrahimpatnam, Krishna District.
4. The Asst. Director of Mines and Geology, Tekkali, Srikakulam District.
5. The Chief Commissioner (ST), Door No.12-468-4, Kunchanapalli, Guntur District - 522501.
6. The State of Andhra Pradesh, Rep. by its Principal Secretary to Government, Revenue (CT-II) Department, Secretariat, Velagapudi, Guntur Dist., A.P.

...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 call for the records, related to the impugned assessment order and summary of the orders in Form GST DRC-07, from the 151 Respondent, and to issue a Writ of Certiorari or such other Writ, Order or direction as this Hon'ble Court may deem fit, quashing the Assessment order in DIN 3713032365223 in form DRC-07 dated 13.03.20023 (Ex. P-1), for the period, from 07/2017 to 12/2019, passed by the 1st Respondent herein, under the CGST, IGST and SGST Act, 2017, as illegal, arbitrary, without Jurisdiction and contrary to the provisions of Section 5 of the Central Goods and Services Tax Act, 2017 and Section 4 read with Section 20 of the Integrated Goods and Services Tax Act, 2017 and read with the Circular No.31/05/2018-GST dt.09-02-2018 read with Sl. No.52 of the list of the circulars notified in 2018 through the official website of the Commercial Taxes Department, and against the principles of natural justice, and consequently. B. to declare that the Summary of the Orders in Form GST DRC-07, dt 13.03.2013, passed by the 2nd Respondent for each year separately, as detailed below (Ex. P-2 Colly), as illegal and unenforceable, and/or may pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Sl.No	Period	Reference No
1.	1 July 2017 to March 2018	ZD370323007269H
2.	April 2018 to March 2019	ZD370323007270Y
3.	April 2019 to December 2019	ZD370323007266N

C. To declare that the State Order in CCST's Ref. No. CCW/GST/74/2015, Dt.29-11-2019 in File No.REV03-12039(31)/89/2019-GST SEC-CCT (Ex. P-4) is discriminatory between the equal assessees, hence, ultra-virus to Article 14 of the Constitution of India.

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to grant stay of all further proceedings, pursuant to the Assessment order in DIN 3713032365223 in form DRC-07 dated 13.03.20023 (Ex. P-1), followed by the Summary of the Orders in Form GST DRC-07, dt.13-03-2023 (Ex. P-2), for the period, from 07/2017 to 12/2019, passed by the 1. Respondent, pending disposal of the Writ Petition as otherwise, the petitioner will be put to much hardship and severe loss.

Counsel for the Petitioner: SRI. A. SARVESWAR RAO

Counsel for the Respondents No.1,2,5,6: GP FOR COMMERCIAL TAX

Counsel for the Respondents No.3,4: GP FOR MINES AND GEOLOGY

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
AND
THE HON'BLE SRI JUSTICE HARINATH NUNEPALLY

WRIT PETITION No.14497 OF 2023

JUDGMENT:- *(per Hon'ble Sri Justice Ravi Nath Tilhari)*

Heard Sri A. Sarweshwar Row, learned counsel for the petitioner and learned Government Pleader for Commercial Tax for the respondent Nos.1, 2, 5 and 6 and learned Government Pleader for Mines and Geology for the respondent Nos.3 and 4.

2. On 19.12.2023, the following order was passed:-

> "Sri A. Sarveswar Rao, learned counsel for the petitioner appears through virtual mode.
>
> 2. Sri N. Naveen Kumar, learned Government Pleader for Mines and Geology for the respondent Nos.3 and 4, the Director of Mines and Geology and the Assistant Director of Mines and Geology, submits that pursuant to the order dated 07.07.2023 passed by a Co-ordinate Bench of this Court in W.P.No.11549 of 2020, show cause notices dated 09.03.2020 and 25.06.2020 issued by the Mines and Geology Department to the present petitioner have been dropped by the proceedings Lr.No.1512/Q/2004, dated 21.11.2023.
>
> 3. Learned counsel for the petitioner also submits the same, but he further submits that in the present writ petition the petitioner has challenged the order of assessment dated 13.03.2013 passed by the respondent No.2. He submits that the said order was passed and the proceedings were initiated pursuant to the notice issued by the Mines Department which is now been withdrawn.

He further submits that consequently the impugned order cannot stand.

4. Let the order of dropping the notices be brought on record by way of affidavit by the respondent No.3.

5. Let the Government Pleader also obtain instructions with respect to the impugned order, in view of the subsequent developments taking place.

6. List on 02.01.2024."

3. Learned Government Pleader for Commercial Tax based on the instructions submits that the order impugned in the petition was passed and the proceedings were initiated based on the notice issued by the Mines and Geology Department. Those notices have been dropped vide proceedings dated 21.11.2023. The very basis of the impugned order and the initiation of the proceedings goes, which cannot stand. However, he further submits that the liberty may be granted to take the proceedings afresh, if there is any cause, as per law.

4. Considering the aforesaid submissions and the circumstances the impugned order is quashed. The Writ Petition is allowed however granting liberty to the respondents as prayed.

No order as to costs.

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

SD/- B. PRASADA RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Assistant Commissioner (ST), Srikakulam Circle, Srikakulam.
2. The Regional Vigilance and Enforcement Officer, Srikakulam, Srikakulam District.
3. The Director of Mines and Geology, 5th and 6th floors, Sri Anjaneya Towers, Ibrahimpatnam, Krishna District.
4. The Asst. Director of Mines and Geology, Tekkali, Srikakulam District.
5. The Chief Commissioner (ST), Door No.12-468-4, Kunchanapalli, Guntur District - 522501.
6. The Principal Secretary to Government, Revenue (CT-II) Department, State of Andhra Pradesh, Secretariat, Velagapudi, Guntur Dist., A.P.
7. One CC to SRI A. SARVESWAR RAO Advocate [OPUC]
8. Two CCs to GP FOR COMMERCIAL TAX, High Court of Andhra Pradesh [OUT]
9. Two CCs to GP FOR MINES AND GEOLOGY, High Court of Andhra Pradesh [OUT]
10. Three C.D Copies

Nm

MBT

HIGH COURT

DATED: 09/01/2024

ORDER

WP.No.14497 of 2023

ALLOWING THE WP

WITHOUT COSTS