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

MONDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE SUJOY PAUL

THE HONOURABLE DR. JUSTICE G.RADHA RANI

WRIT PETITION NO: 36627 OF 2024

Between:

M/s. Rajeswara Reddy Avula, Apgate-204, My Jewel Home, Madinaguda, Hyderabad, Telangana - 500049, Rep. by its Proprietor, Rajeswara Reddy Avula.

...PETITIONER

AND

1. The Union of India, Through Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi - 110001.
2. The State of Telangana, Rep. by the Principal Secretary to the Government, Revenue (CT) Department, Telangana Secretariat, Hyderabad, Telangana.
3. The Assistant Commissioner (GST), Charminar DC Office, I Floor, Gagan Vihar Building, M.J. Road, Nampally, Hyderabad, Telangana -500001.
4. The Goods and Service Tax Council, Rep. by its Secretary, GST Council, Secretariat, 5th Floor, Tower-II, Jeevan Bharti Building, Janpath Road, Connaught Place, New Delhi-110 001.
5. The Central Board of Indirect Taxes and Customs, Rep. by its Chairman, Ministry of Finance, Department of Revenue, North Block, Central Secretariat, New Delhi-110 001.

...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 an appropriate Writ, Order or Direction, more particularly in the nature of MANDAMUS.- i. that the impugned Notification Nos.09/2023-Central Tax, dated 31-03-2023 and 56/2023, Central Tax, dated 28-12-2023, issued by the First and Fifth Respondents, and the impugned G.O. Ms. Nos. 118, Revenue (CT-II) Department, dated 25-08-2023 and 170, Revenue (CT-II) Department, dated 30-12-2023, issued by the Second Respondent, under S. 168-A of the

CGST Act, 2017, extending the Period of Limitation prescribed u/S. 73(10) of the CGST Act, 2017, for the Financial Year 2019-20 are ultravires Section 168-A of the CGST Act, 2017 , same, ii. Declaring that the impugned Order, vide DIN nGST/36AFOPA7200B1Z2/20, dated 31-08-2024, passed by the Third Respondent, u/S. 73 of the CGST/SGST Acts, 2017, for the F.Y. 2019-20, which was passed on the basis of the above provisions under challenge, and further not containing electronically generated DIN, not containing signature/digital signature, without considering the Written Objections/Reply to Show Cause Notice admittedly filed, as barred by limitation, violative of the principles of natural justice, arbitrary, invalid and deemed to never have been issued and not an order in the eye of law, perverse, arbitrary,capricious, unjustified and even on merits unsustainable and illegal and consequently set aside the same.

IA NO: 1 OF 2024

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 pleased to grant stay of all further proceedings, including recovery of tax, pursuant to the impugned Order, vide DIN. GST/36AFOPA7200B1Z2/20, dated 31/08/2024, passed by the Third Respondent, u/S. 73 of the CGST/SGST Acts, 2017, for the F.Y. 2019-20.

Counsel for the Petitioner : SRI G.NARENDRA CHETTY

Counsel for the Respondent No.1 : SRI MUKHERJEE, rep.,
SRI GADI PRAVEEN KUMAR, DY.SO.GEN

Counsel for the Respondent No.2to3 : SRI SWAROOP OORILLA,
SPL.SC FOR STATE TAX

Counsel for the Respondent No.4&5:SRI DOMINIC FERNANDES, Sr.SC FOR CBIC

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE SUJOY PAUL

AND

THE HON'BLE Dr. JUSTICE G. RADHA RANI

WRIT PETITION No.36627 of 2024

ORDER *(per Hon'ble SP,J)*

Sri G. Narendra Chetty, learned counsel for the petitioner, Sri B. Mukherjee, learned counsel representing Sri Gadi Praveen Kumar, learned Deputy Solicitor General of India, for respondent No.1, Sri Swaroop Oorilla, learned Special Government Pleader for State Tax, for respondent Nos.2 & 3 and Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, for respondent Nos.4 and 5.

2. With the consent finally heard.

3. The impugned order dated 31.08.2024 passed under Section 73 of the Telangana Goods and Services Tax Act and Central Goods and Services Tax Act, 2017 is subject matter of challenge in this writ petition. The only ground raised by learned counsel for the petitioner is based on the finding given in the operative portion of the impugned order. The finding reads thus:

> "However, the tax payer **M/s. A. Rajeswara Reddy** had filed reply or written objections but not attended any personal hearing as per 2 adjournments which send through common portal. Therefore, the tax proposed in the show cause notice is confirmed as under."

4. By taking this Court to the aforesaid finding, learned counsel for the petitioner submits that admittedly, the petitioner's reply to the show cause notice was received by the Proper Officer. However, the Proper Officer did not consider it on the ground that the petitioner did not attend personal hearings despite giving two adjournments. Even assuming this to be correct that the petitioner did not attend such personal hearings, the Proper Officer was under an obligation to consider the reply to the show cause notice. It is prayed that for this reason alone, the impugned order may be set aside by reserving liberty to the respondents to pass a fresh order in accordance with law.

5. The other sided has no objection.

6. Considering the aforesaid, the impugned order dated 31.08.2024 is set aside. The Proper Officer shall rehear the petitioner and pass a fresh order, in accordance with law, expeditiously.

7. Accordingly, this Writ Petition stands **disposed of** without expressing any opinion on the merits of the case. No costs.

Interlocutory applications, if any pending, shall also stand closed.

SD/-K. SREE RAMA MURTHY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Secretary, Ministry of Finance, Department of Revenue, Union of India, North Block, New Delhi - 110001.
2. The Principal Secretary to the Government, Revenue (CT) Department, State of Telangana, Telangana Secretariat, Hyderabad, Telangana.
3. The Assistant Commissioner (GST), Charminar DC Office, I Floor, Gagan Vihar Building, M.J. Road, Nampally, Hyderabad, Telangana -500001.
4. The Secretary, Goods and Service Tax Council, GST Council, Secretariat, 5th Floor, Tower-II, Jeevan Bharti Building, Janpath Road, Connaught Place, New Delhi-110 001.

5. The Chairman, Central Board of Indirect Taxes and Customs, Ministry of Finance, Department of Revenue, North Block, Central Secretariat, New Delhi-110 001.

6. One CC to SRI G.NARENDRA CHETTY, Advocate. [OPUC]

7. One CC to SRI GADI PRAVEEN KUMAR, (Deputy Solicitor General of India), High Court for the State of Telangana at Hyderabad. [OPUC]

8. One CC to SRI SWAROOP OORILLA, SPL.G.P for State Tax. [OPUC]

9. One CC to SRI DOMINIC FERNANDES, Senior Standing Counsel for CBIC. [OPUC]

10. Two CD Copies.

BSK

BS

HIGH COURT

DATED:30/12/2024

ORDER

WP.No.36627 of 2024

12/1/25

DISPOSING OF THE WRIT PETITION WITHOUT COSTS