

HIGH COURT FOR THE STATE OF TELANGANA : HYDERABAD

MAIN CASE NO: WRIT PETITION No.19594 OF 2024

PROCEEDING SHEET

SL. NO	DATE	ORDER	OFFICE NOTE
	29.01.2025	<u>HACJ & Dr.GRR,J</u> <u>I.A.No.1 of 2025</u> Dispensed with for the present. <u>I.A.No.3 of 2025</u> Sri Venkat Prasad.P., learned counsel representing Sri Md.Shabaz, learned counsel for the petitioner; Sri M.Srikanth Reddy, learned Senior Standing Counsel for CBIC for respondent Nos.1, 2, 3 and 6 and Sri Swaroop Oorilla, learned Special Government Pleader for State Tax, for respondent No.5. This review petition seeking review of the order passed in WP.No.19594 of 2024 which was disposed of along with WP.No.1154 of 2024 and batch on 02.01.2025. The following grounds are pressed by learned counsel for the petitioner: “The Hon’ble Court ought to have considered the fact that the Petitioner in the present writ petition has also challenged impugned order and the Show-Cause Notice (SCN), which confirmed the demands on similar issues, thereby resulting in duplication and reopening of concluded proceedings involving the question of jurisdiction, furthermore absence of procedure prescribed and violation of provisions of section 61 read with Rule 99 and the same was not adjudicated in the Judgment and Order dated 02.01.2025. The Hon’ble High Court ought to have appreciated that when the order was passed in violation of the principles of natural justice, recourse to the Appeal Remedy would be	Transferred to IO Folder before corrections.

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		ineffective and the same ought to be decided by the Constitutional Court under Article 226.” In addition, it is submitted that this Court has considered almost similar grounds in WP.No.11449 of 2024 and the same is pending. WP.No.1154 of 2024 and batch were disposed of by permitting the petitioners therein to avail remedy of appeal, but, considering the nature of grounds raised hereinabove, the review petition may be entertained and the Writ Petition may be restored to its original number to hear the matter on merits. The other side raised an objection by contending that the petitioner can raise additional grounds in the appeal and that opportunity is also reserved while passing the aforesaid common order. No other point is pressed. Mere breach of principles of natural justice alone cannot be a ground to “entertain” the Writ Petition. The “maintainability” and “entertainability” are two different facets. The petitioner is unable to show as to what prejudice would be caused to him, if he raises all the aforesaid grounds in the appeal. The appellate authority is best suited and competent to take care of all possible grounds including the ground related to principles of natural justice and also the grounds highlighted herein above.	

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		The Apex Court in PHR INVENT EDUCATIONAL SOCIETY V. UCO BANK¹ set aside the judgment of Telangana High Court in WP.No.5275 of 2021, dated 04.02.2022 and opined as under: “ 15. It could thus be seen that, this Court has clearly held that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person. It has been held that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions. The Court clearly observed that, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc., the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are a code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal of the grievance of any aggrieved person. It has been held that, though the powers stitution are of widest amplitude, still the Courts cannot be oblivious of the rules of self-imposed restraint evolved by this Court. The Court further held that though the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, still it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution.” (Emphasis Supplied) In this view of the matter, no case is made out to exercise review jurisdiction.	

¹ (2024) 6 Supreme Court Cases 579

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		Accordingly, this Application stands disposed of. HACJ Dr.GRR,J Nvl	