APHC010083862026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3529]**
(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 12281/2026

Between:

1. M/S. GOPALAKRISHNA TRADERS, GSTN-37AKCPN5765D1Z2 REP. BY ITS PROPRIETOR,SRI N. GANGANARAYANA RAJU 3-104, 3RD FLOOR, GOPALAKRISHNA NILAYAM PEDAVEGI MANDAL, RAYANNAPALEM-534475 WEST GODAVARI, ANDHRA PRADESH

...PETITIONER

AND

1. THE DEPUTY ASSISTANT COMMISSIONER STI, ELURU -II CIRCLE, ELURU DIVISION DR.NO.3A-13-1, 3RD FLOOR, PRASANNA TOWERS, HEAD POST OFFICE ROAD, ELURU - 534001, WEST GODAVARI DIST.
2. THE ADDITIONAL COMMISSIONER STATE TAX, VIJAYAWADA DIVISION NEAR SIDDARDHA COLLEGE, MOGHALRAJPURAM - 520010 VIJAYAWADA
3. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY REVENUE CT-II DEPARTMENT, AP SECRETARIAT, VELAGAPUDI-522237 AMAVATHI, GUNTUR DISTRICT, ANDHRA PRADESH
4. UNION OF INDIA, REP. BY ITS SECRETARY, MINISTRY OF FINANCE, NORTH BLOCK NEW DELHI-110 001

...RESPONDENT(S):

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 topleased to issue a Writ of Mandamus or any other appropriate writ or order or direction - (a) declaring the action of the Respondent in issuing the show cause notice dated 15.12.2023 without affixing signature as illegal, arbitrary and contrary to law and set aside the show cause notice as well as the consequential assessment order dated 18.4.2024 and the endorsement of the 2nd Respondent issued by the 2nd Respondent dated 21.10.2025 rejecting the appeal, (b)declaring the action of the 1st Respondent in issuing the show cause notice, reminders and the assessment orders on the portal under Section 169 of the CGST Act, without intimation to the Petitioner, as illegal, arbitrary and contrary to law and in violation of principles of natural and violates Article 14, 19(1)(g) and Article 300-A of the Constitution of India.

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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 pursuant to the impugned order of the 1®* Respondent dated 18.4.2024 in the appeal, for the tax period 2018-19, pending disposal of the Writ Petition, as otherwise the Petitioner will be put to severe loss and hardship.

Counsel for the Petitioner:

1. SRINIVASA RAO KUDUPUDI

Counsel for the Respondent(S):

1. GP FOR COMMERCIAL TAX
2.

The Court made the following Order:

(per Hon'ble Sri Justice R Raghunandan Rao)

Heard Sri Srinivasa Rao Kudupudi, learned counsel for the petitioner and the learned Government Pleader for Commercial Taxes appearing for the respondents.

2. The petitioner was served with an order of assessment, in FORM GST DRC –07, dated 18.04.2024, passed by the 1st respondent, under the Goods and Services Tax Act, 2017 [for short "the GST Act"] for the financial year 2018-19. This summary of the order has been challenged by the petitioner in the present Writ Petition.

3. The said order, in FORM GST DRC – 07, is challenged by the petitioner, on various grounds, including the ground that the said proceedings did not contain the signature of the assessing officer.

4. Learned Government Pleader for Commercial Taxes, on instructions, submits that there is no signature of the assessing officer, on the impugned assessment order.

5. The effect of the absence of the signature, on an assessment order was earlier considered by this Court, in the case of **A.V. Bhanoji Row Vs. The Assistant Commissioner (ST)**, in W.P.No.2830 of 2023, decided on 14.02.2023. A Division Bench of this Court, had held that the signature, on the assessment order, cannot be dispensed with and that the provisions of

Sections-160 & 169 of the Central Goods and Service Tax Act, 2017, would not rectify such a defect. Following this Judgment, another Division Bench of this Court, in the case of **M/s. SRK Enterprises Vs. Assistant Commissioner**, in W.P.No.29397 of 2023, decided on 10.11.2023, had set aside the impugned assessment order.

6. Another Division Bench of this Court by its Judgment, dated 19.03.2024, in the case of **M/s. SRS Traders Vs The. Assistant Commissioner ST & ors**, in W.P.No.5238 of 2024, following the aforesaid two Judgments, had held that the absence of the signature of the assessing officer, on the assessment order, would render the assessment order invalid and set aside the said order.

7. Following the aforesaid Judgments, the impugned summary of the assessment order would have to be set aside, on account of the absence of the signature of the assessing officer, on the impugned summary of the assessment order.

8. This Court is also cogent of the fact that the impugned order has been passed some time back and the present writ petition has been filed with delay. However, Rule 26(3) of the CGST Rules, 2017 stipulates that service of notice or orders, without signature, would not amount to service at all. The Hon'ble High Court of Madras in T.V.L. Deepa Traders vs. The Deputy Commissioner (W.P.No.19277 of 2024, dated 13.08.2024) had held the same

view. Consequently, there is no service of the impugned order even as of today, on account of the absence of signature on the impugned proceeding. In those circumstances, the delay in approaching this Court would not be a relevant factor.

9. Learned Government Pleader for Commercial Taxes, would contend that the petitioner having availed the remedy of appeal and having failed in the said appeal, cannot be permitted to challenge the order of assessment.

10. A Division Bench of this Court, in its order, dated 18.12.2023, in W.P.No.31675 of 2023, had held, in similar circumstances that a challenge to the original order would be maintainable even if the appeal has been disposed of.

11. However, the learned Government Pleader for Commercial Taxes, appearing for the respondents, would contend that the order, under challenge, has been passed on 18.04.2024 and the petitioner has approached this Court with inordinate delay and such delay has not been properly explained.

12. The learned counsel for the petitioner would submit that the copy of the said order had not been served on the petitioner, in the conventional method and the respondents are claiming that the order is served on the petitioner by uploading the same in the portal.

13. The learned Government Pleader, on the other hand, would contend that Section 169 (1) (d) of the GST Act, 2017 prescribes the uploading of the order, in the portal, as a method of service on the registered persons and in that view of the matter, it must be held that service has been affected on the petitioner.

14. The Hon'ble High Court of Allahabad in **M/s. Bambino Agro Industries Ltd. vs. State of Uttar Pradesh and Another,** in Writ Tax No.2707 of 2025, had held that uploading the order in the portal, mentioned by the GST Authorities, would not be sufficient service of the order on the registered person.

15. However, the fact remains that a very large number of registered persons have approached this Court with the contention that they were unable to access the portal either on account of their ignorance or on account of the fact that the persons, authorized by them, who act on their behalf, are not informing them of such orders. In the normal course, this Court would not accept such a contention as neither ignorance of law nor the inability to access the portal, could have been accepted is a sufficient cause for condoning the delay in approaching this Court.

16. This Court is also not unaware of the practical difficulties that have arisen on account of the introduction of the GST regime and the introduction of the online mechanism, under this regime, for the administration of tax collection, etc.

17. Keeping in view the hardships that are being faced by various registered persons, especially in cases where the orders suffer from patent irregularities, the impugned orders of assessment would have to be set aside.

18. In the circumstances, with a view to balance both the difficulties being faced by the registered persons and the need for the State to maintain its administration of tax collection, it would be appropriate that writ petitions, filed by such registered persons, with delay, can be considered, subject to the registered persons paying 20% of the disputed tax. We are also fortified, in this course of action, in view of the Judgment of the Hon'ble High Court of Madras in W.P.No.1474 of 2026.

19. In these circumstances, keeping in view the fact that the present order, under challenge, suffers from an inherent defect of absence of signature, the same is set aside and the assessment is remanded back to the Assessing Officer to pass appropriate orders, after giving due opportunity of hearing, available to the petitioner, under the provisions of the GST Act. This order is subject to the condition of the petitioner depositing 20% of the disputed tax, within a period of six (06) weeks.

20. Needless to say, the period from the date of filling of this Writ Petition till the date of receipt of this order by the Assessing Officer, shall be excluded for the purposes of limitation and all issues are left open to be raised by the petitioner before the Assessing Officer.

21. Accordingly, this Writ Petition is allowed. There shall be no order as to costs.

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

R. RAGHUNANDAN RAO, J

T.C.D. SEKHAR, J

Date:05.05.2026
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THE HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

AND

THE HON'BLE SRI JUSTICE T.C.D.SEKHAR

<u>WRIT PETITION No.12281 of 2026</u>

(per Hon'ble Sri Justice R. Raghunandan Rao)

05.05.2026

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