APHC010343582026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3543]**
(Special Original Jurisdiction)

WEDNESDAY, THE 8th DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION No.18339 of 2026

Between:

1. M/S.SREE MAHA INFRA PROJECTS, PLOT No.42, SRI DANDUMARAMMA COLONY, KANAPAKA, VIZIANAGARAM, 37, 535002, ANDHRA PRADESH, REP. BY ITS MANAGING PARTNER, SRI RAMU NAIDU KANDI, S/o. APPALANARSI KANDI, AGED ABOUT 41 YEARS.

...PETITIONER

AND

1. THE ASSISTANT COMMISSIONER (ST), VIZIANAGARAM EAST CIRCLE, VIZIANAGARAM, ANDHRA PRADESH- 535002.
2. STATE OF ANDHRA PRADESH, REP.BY ITS PRINCIPAL SECRETARY, REVENUE (CT) DEPARTMENT, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT, ANDHRA PRADESH-522237.
3. UNION OF INDIA, REP. BY ITS SECRETARY, MINISTRY OF FINANCE, 4TH FLOOR, A-WING, SHASTRI BHAWAN, NEW DELHI-110001.

...RESPONDENT(S):

Counsel for the Petitioner:

1. Mr.M V J K KUMAR

Counsel for the Respondent(S):

1. GP FOR COMMERCIAL TAX

The Court made the following order: *(Per Hon'ble Sri Justice Ninala Jayasurya)*

Heard Mr.S.Sameer, Advocate representing learned counsel for the petitioner, who appeared through online. Also heard learned Government Pleader appearing on behalf of Commercial Tax Department.

2. The present writ petition is filed aggrieved by an Order of Assessment dated 21.03.2023 passed by the 1st respondent on various grounds.

3. Petitioner, a Registered Tax Payer with GSTIN: 37AEEFS5859M1Z7 on the rolls of 1st respondent, in the affidavit filed in support of the writ petition states that on receipt of a phone call from the 1st respondent-office, came to know about impugned proceedings and on verification in the GST portal, it was noticed that the said order has been uploaded in "View Notices and Orders tab."

4. Learned counsel for the petitioner submits that before passing the impugned assessment order, no notice was served much less a Show Cause Notice dated 13.02.2025 to which a reference was made therein. He also submits that mere uploading of notices in the portal would not be sufficient and in the present case, even the petitioner did not receive any alert Notification either in respect of the Show Cause Notice or the Assessment Order passed pursuant thereto. Incidentally, he also urges that mandatory requirements of Section 75 (4) of Central Goods and Services Tax, 2017 (for short 'the CGST Act') was not complied with.

5. Elaborating the said contention, he submits that in the event the proper officer was intending to make any adverse decision, an opportunity of hearing has to be afforded. Making the said submissions, learned counsel seeks to allow the writ petition by setting aside the impugned proceedings.

6. On the other hand, learned Government Pleader Mr.M.V.Krishna Rao made submissions to sustain the impugned order. It is his contention that the petitioner failed to utilize the opportunities afforded to it, after issuance of Show Cause Notice dated 13.02.2025 and therefore it is not correct to contend that the order has been passed without complying with the statutory requirements. However, on a specific query of the Court, on instructions, he submits that prior to passing of the impugned order, no further notice of personal hearing more particularly, with reference to Section 75 (4) of the CGST Act was issued to the petitioner.

7. This Court has considered the submissions made and perused the material on record.

8. At the outset, in view of the specific submission made by the learned Government Pleader, this Court deems it not necessary to examine various contentions raised in the writ petition. Suffice to state that Section 75 (4) of the CGST Act, contemplates that “an opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person”.

9. A Division Bench of this Court had an occasion to deal with this aspect *vide* order dated 28.04.02021 passed in W.P.No.9162 of 2021. In another decision in W.P.No.22371 of 2024 dated 08.07.2026, referring to Section 75(4) of the CGST Act, it was *inter alia* held as follows:

> "8. The above provision makes it clear that an opportunity of hearing shall be granted where a specific request is received in writing from the person chargeable with tax or penalty or whether any adverse decision is contemplated against such person. Second limb of the provision is explicit and mandates that even in the absence of a request for personal hearing by the concerned person chargeable with tax or penalty, an opportunity of hearing shall be afforded in the event, any adverse decision is sought to be taken against such person………"

10. In view of the above stated legal position, the impugned assessment order is not sustainable. Accordingly, the same is set aside.

11. However, the 1st respondent is at liberty to issue fresh notice to the petitioner and pass appropriate orders of assessment, in accordance with the Law, after giving due opportunity to the petitioner.

12. In the result, writ petition is allowed. No costs. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE NINALA JAYASURYA

JUSTICE T.C.D.SEKHAR

Dt.08.07.2026
BLV

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

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

<u>W.P.No.18339 of 2026</u>

Dt: 08.07.2026

BLV