APHC010527652025

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(Special Original Jurisdiction)

[3529]

WEDNESDAY, THE SEVENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 27632/2025

Between:

1. M/S. HITHAISHI INFRA MACHINE, REPRESENTED BY ITS MANAGING PARTNER, SHRI UDAYA KUMAR TANKASALA, S4, APIIC INDUSTRIAL ESTATE, RENIGUNTA ROAD, TIRUPATHI, CHITTOOR, ANDHRA PRADESH, 517501.

...PETITIONER

AND

1. THE ASSISTANT COMMISSIONER ST FAC, , TIRUPATI - II CIRCLE, CHITTOOR DIVISION, D. NO. 23-8-52/59, FIRST FLOOR, CT COMPLEX, NEW BALAJI COLONY. NEAR MROS BUILDING, TIRUPATI, ANDHRA PRADESH - 517 501.

2. THE SUPERINTENDENT OF CENTRAL TAXES, TIRUPATI - I RANGE, TIRUPATI DIVISION, TIRUPATI CGST COMMISSIONERATE, M.R.PALLY, SRI KRISHNA NAGAR RD, BEHIND WEST CHURCH COMPOUND, AMARAVATHI NAGAR, PADMAVATHI NAGAR, TIRUPATI, ANDHRA PRADESH 517502.

3. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PRINCIPAL SECRETARY, REVENUE DEPARTMENT

(COMMERCIAL TAX) A.P. SECRETARIAT, VELEGAPUDI.

4. UNION OF INDIA, DEPARTMENT OF REVENUE, REPRESENTED BY ITS SECRETARY (REVENUE), NORTH BLOCK, NEW DELHI.

...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 writ, direction or order for quashing the assessment proceedings of the 1st Respondent in Assessment Order passed in Form GST DRC 07 vide Ref No ZD370325000355R dated 01.03.2025 (Annexure P-1) (hereinafter referred to as demand order) as the cancellation of GST Registration itself is contrary to law and without jurisdiction, consequential demand for reversal of closing balance of ITC automatically fail and Order was Issued without affixing the signature, Order was issued with an incorrect DIN as invalid, arbitrary, without jurisdiction, unreasonable, and in violation of principles of natural justice and contrary to Article 14, Article 19(1)(g), Article 265, Article 300A of the Constitution of India and to pass

IA NO: 1 OF 2025

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 stay the operation of the proceedings of the 1st Respondent in the Assessment Order passed in Form GST DRC 07 vide Ref No. ZD370325000355R dated 01.03.2025 (Annexure P-1) in the interest of justice and pass

Counsel for the Petitioner:

1. ANIL KUMAR BEZAWADA

Counsel for the Respondent(S):

1. SANTHI CHANDRA (Sr. Standing Counsel for CBIC)
2. GP FOR COMMERCIAL TAX
3.

The Court made the following:

HON'BLE SRI JUSTICE RAO RAGHUNANDAN RAO

AND

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

WP No.27632 OF 2025

ORDER:- *(Per Hon'ble Sri Justice T.C.D. Sekhar)*

1. The petitioner is a register dealer under the GST Act. The 2nd respondent issued show cause notice dated 24.08.2024 asking the petitioner to submit explanation as to why the GST registration of the petitioner shall not be cancelled on the ground that the petitioner is not conducting business at its principal place of business as per the registration certificate.

2. It is stated that the petitioner could not replied to the said show cause notice and thereafter the 2nd respondent by order dated 10.09.2024 cancelled the GST registration of the petitioner with effect from 16.07.2020. Thereafter, the petitioner was issued a show cause notice dt.13.02.2025, directing him to reverse the closing balance of input tax credit lying in its Electronic Credit Ledger amounting to Rs.22,68,580/- as per Section 29(5) of the Act. Later, the 1st respondent passed assessment order dated 01.03.2025 confirming the demand for reversal of closing balance ITC as the registration of the petitioner itself was cancelled. Questioning the said order, the present writ petition is filed.

3. The counsel for the petitioner would contend that he would not give reply to the show cause notice inasmuch as its Accountant has left the petitioner’s firm during April, 2024. He would further submit that in view of cancellation of the registration of the petitioner, it had no information with regard to the issuance of show cause notice being uploaded in the GSTN portal. Apart from the same the order under challenge was assailed on various other grounds including lack of DIN and signature.

4. During the course of hearing, the counsel for the petitioner would submit that questioning the cancellation of registration of the petitioner, a writ petition vide WP No.26305 of 2025 was filed before this Court and the same was allowed by order dated 24.09.2025, consequently the registration of the petitioner’s firm was restored. He would further submit that in view of the restoration of the petitioner’s registration the question of reversal of closing balance of ITC does not arise and requested to set aside the order under challenge.

5. On perusal of the impugned order, it is evident that the same was passed on the ground that the petitioner has not filed Form-GSTR-10 or it obtained new GST registration to get transfer of such closing credit. As the petitioner has availed the said benefit of ITC amounting to Rs.22,68,580/-, it had to reverse

the same in view of cancellation of registration. Since, the registration of the petitioner was restored in view of order dated 24.09.2025 in WP No.26305 of 2025 passed by this Court, the question of reversal of closing balance of ITC does not arise in the case on hand. In view of the same, the impugned order is set aside and the writ petition is allowed.

6. Needless to mention, this order will not preclude the respondents to initiate appropriate action against the petitioner in accordance with law.

7. Accordingly, the writ petition is allowed. There shall be no order as to costs.

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

JUSTICE RAO RAGHUNANDAN RAO

JUSTICE T.C.D. SEKHAR

07.01.2026
DR

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THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

AND

THE HONOURABLE SRI JUSTICE T.C.D. SEKHAR

WP No.27632 of 2025
Date 07.01.2026

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