APHC010528752026

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

SATURDAY, THE 10th DAY OF OCTOBER 2026

PRESENT

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

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

WRIT PETITION No: 29557 of 2026

Between:

1. GLOBAL ENTERPRISES, REP. BY ITS PROPRIETOR SRI SHAIK SIRAJ, SHOP No. 05, SHAFI BUILDING, GURU RAGHAVENDRA ROAD, 4TH MAILU, NAVALAKULATHOTA, NELLORE DISTRICT, ANDHRA PRADESH 524002.

...PETITIONER

AND

1. THE DEPUTY ASSISTANT COMMISSIONERST, NELLORE-III CIRCLE, NELLORE DIVISION, NELLORE, ANDHRA PRADESH.-524002.
2. THE JOINT COMMISSIONER ST, NELLORE DIVISION, NELLORE, ANDHRA PRADESH.-524002.
3. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY TO GOVERNMENT, REVENUE (COMMERCIAL TAXES) DEPARTMENT, STATE SECRETARIAT, VELAGAPUDI, AMARAVATI, ANDHRA PRADESH.-522238

...RESPONDENT(S):

Counsel for the Petitioner:

Mr.K.RAGHAVENDER REDDY

Counsel for the Respondent(S):

GP FOR COMMERCIAL TAX

The Court made the following order: *(Per NJS, J)*

Petitioner, a proprietary concern, is a Registered Dealer under the provisions of the Goods and Services Tax Act (for short 'the Act'). It is engaged in trading activities involving both taxable and exempted goods relating to Aqua Feeds and Chemicals and falling within the jurisdiction of the 1st respondent.

2. On scrutiny of returns filed by the petitioner under Section 61 of the Act, the 1st respondent allegedly found discrepancies under the head "Restriction and Reversal of ITC u/s.42, 43 of the GST Act" for the financial year 2024-25 and while quantifying the same for a sum of Rs.2,43,701/-, issued a notice in Form GST ASMT-10 dated 27.05.2025. Subsequently, Form GST DRC-01A dated 13.08.2025 under Section 74A of the Act was issued. Petitioner submitted a detailed Reply dated 22.09.2025 *inter alia* stating that it maintains separate purchases and sales records for taxable and exempted goods, that input tax has been availed only on inputs used exclusively for taxable supplies, and no credit has been availed on inputs relatable to exempted supplies and to drop the proceedings. Notwithstanding the reply submitted by the petitioner, the 1st respondent proceeded to issue a Show Cause Notice in Form GST DRC-01 dt.29.08.2025. Opportunity of personal hearing was afforded and ultimately impugned order dated 18.02.2026 for a sum of Rs.3,04,486/- towards tax, interest and penalty was passed.

3. Learned counsel for the petitioner *inter alia* submitted that while it is no doubt true that 1st respondent afforded opportunity of hearings to the petitioner before passing of the order impugned in the writ petition, the fact remains that the petitioner, *vide* its Letter dated 04.02.2026 addressed to the 1st respondent categorically mentioned that all the purchase records and invoices were properly maintained and available for verification. In such circumstances, instead of calling upon the petitioner to produce the records / invoices and verifying the same, the 1st respondent finalized the assessment proceedings, therefore the same amounts to violation of principles of natural justice. He submits that the material filed along with the writ petition for the relevant tax period clearly supports the case of the petitioner and one opportunity may be afforded, so that the relevant records would be produced before the 1st respondent.

4. Drawing the attention of this Court to Ex.P9, dated 06.01.2024 and Conclusion Order (DRC 05) dated 05.01.2024, learned counsel submits that on the very same issue i.e., alleged requirement of reversal of Input Tax Credit under Rules 42 and 43 of the GST Rules, 2017 in respect of petitioner's business operations in Aqua Feeds and Chemicals, for the earlier financial years, the 1st respondent on identical facts, concluded that the tax payer / petitioner is not liable to restrict the specific ITC as per Section 17 (2) of GST Act r/w Rules 42 and 43 of GST Rules. Accordingly, proposals in DRC-01 for the tax period 2020-21 was withdrawn. In the said circumstances of the case, learned counsel submits that the order under challenge may be set aside and

matter remanded to the 1st respondent for passing appropriate orders, after giving due opportunity to the petitioner.

5. Learned Assistant Government Pleader Mr.S.A.V.Sai Kumar, on the other hand, made submissions to sustain the impugned order. Stating that though the petitioner has a remedy of appeal, the present writ petition is filed, he submits that the same is liable to be dismissed.

6. This Court has considered the submissions made. Perused the material on record.

7. At the outset, it may be pertinent to mention that as fairly submitted by the learned counsel for the petitioner, the impugned order was passed after issuance of show cause notice and providing opportunity of personal hearings to the petitioner on three occasions. However, in the Letter dated 04.02.2026, the petitioner has specifically mentioned that the relevant records relating to the petitioner's business operations during the tax period in question are available for verification. In such circumstances, petitioner should have been afforded one opportunity for production of the relevant documents / records before passing order of assessment. However, the 1st respondent proceeded in the matter and passed the impugned order, which in the facts and circumstances of the case, is violative of principles of natural justice. That apart, in respect of petitioner's similar business transactions proceedings in respect of the tax period of 2021-22 were dropped. This factor weighs in favour of the petitioner. That apart, the petitioner filed the ledger account

details for the financial year 01.04.2024 to 31.03.2025 relating to the tax period in question. In the factual scenario, we deem it appropriate to set aside the impugned order, however by imposing a condition.

8. Accordingly, the writ petition is disposed of by setting aside the order under challenge, subject to the condition of petitioner deposing 10% of the disputed tax within a period of six (6) weeks from the date of receipt of copy of this order. In the event petitioner fails to comply with the condition imposed, within the stipulated time, the order of this Court stands dissolved automatically.

9. In view of setting aside of the impugned order, all consequential actions including bank attachment of the petitioner shall stand revoked. Needless to say, the period from the date of passing of the impugned order till the date of receipt of this order shall be excluded for the purpose of limitation.

No order as to costs. Consequently, all pending applications, if any, shall stand closed.

JUSTICE NINALA JAYASURYA

JUSTICE T.C.D.SEKHAR

Date: 10.10. 2026
BLV

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

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

W.P.No.29557 of 2026

Dt: 10.10. 2026

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