APHC010546352026

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

WEDNESDAY, THE 14th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 29968 OF 2026

Between:

1. GOTTIPATI SIVA NAGA DEEPTHI, W/o and Legal Heir of Late Mr. Gottipati Siva Prasad, Aged 38 years, Occ Housewife, R/o. H.No.67-1-21/2A, Nallurusivanarayana Street, Patamatalanka, Near D-Mart, Vijayawada, Krishna District, Andhra Pradesh -520 010.

...Petitioner

AND

1. THE ASSISTANT COMMISSIONERST, Penamaluru Circle, No.III Division, Vijayawada, Krishna District, Andhra Pradesh.

...Respondent

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 toissue a Writ of Mandamus or any other appropriate Writ, Order or Direction a) the Show cause notice in Form GST DRC-01 and Summary and Attachment to show cause notice in Form GST DRC-01, dated 15.03.2024 and 14.03.2024 respectively, issued by the 1st Respondent, in the name of the deceased person, under the provisions of the Andhra Pradesh Goods and Services Tax Act, 2017, for the tax period 2021 - 22 b) the Order under Section 73 of the Goods and Services Tax Act, 2017, Summary of the Order

in Form GST DRC-07 and Attachment to Form GST DRC-07, dated 20.12.2024 and 19.12.2024 respectively, passed by the 1st Respondent, in the name of the deceased person, under the provisions of the Andhra Pradesh Goods and Services Tax Act, 2017, for the tax period 2021 -22 c) The Form GST DRC-16, dated 15.09.2026, issued by the 1st Respondent, in the name of the deceased person, under Section 79 of the CGST/APGST Act, 2017, as arbitrary, bad and non-est in law, non-speaking, without jurisdiction, vague are issued without any authority of law, apart from being violative of Articles 14, 19(1)(g) and 265 of the Constitution of India

IA NO: 1 OF 2026

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 stay all further proceedings, including any recovery, pursuant to the order u/s 73 of the Goods & Services Tax Act, 2017, Summary of the Order in Form GST DRC-07 dated 20.12.2024, & Attachment to Form GST DRC-07 dated 19.12.2024, passed by the 1st Respondent, under the provisions of the Andhra Pradesh Goods & Services Tax Act, 2017, for the tax period 2021 — 22, pending disposal of the above Writ Petition

IA NO: 2 OF 2026

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 direct the Respondents not to initiate or take any coercive steps, including recovery proceedings, pursuant to the impugned demand and Form GST DRC 16, dated 15.09.2026, pending disposal of the above Writ Petition;

Counsel for the Petitioner: SINGAM SRINIVASA RAO

Counsel for the Respondent GP FOR COMMERCIAL TAX

The Court made the following order:

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 29968 OF 2026

ORDER: *(per Hon'ble Sri Justice Ninala Jayasurya)*

Heard Mr. Srinarayan Toshniwal, learned arguing counsel for the petitioner, who appeared through online. Also heard Mr. S.A.V.Sai Kumar, learned Assistant Government Pleader for Commercial Tax representing the respondents.

2. With the consent of learned counsel on both sides, writ petition is being disposed of, at the stage of admission.

3. As per the averments made in the affidavit, husband of the deponent is proprietor of M/s. Gottipati Siva Prasad and he expired on 29.09.2023. Respondent authorities passed impugned orders dated 19.12.2024 and 20.12.2024 and since the husband of the petitioner was proprietor looking after the financial activities of the business that even the accountant informed business is closed and therefore, passing of assessment order was not within the knowledge of the deponent. Be that as it may.

4. Learned counsel for the petitioner *inter alia* submits that in view of death of the proprietor, subsequent events are not within the knowledge of the petitioner, who is a home-maker. Placing reliance on the decision of a Co-ordinate Bench of this Court in W.P No.6029 of 2025 dated 24.12.2025,

and a decision of this Bench in W.P No.21466 of 2026 dated 04.08.2026, learned counsel while stating that the deponent of affidavit/petitioner has not inherited any interest out of the proprietary concern, seeks to allow the writ petition by setting aside the impugned order.

5. *Per contra*, learned Assistant Government Pleader for Commercial Tax, sought to sustain the impugned orders. His submission is that the petitioner instead of availing the remedy of appeal had straightaway filed the present writ petition and the same is not maintainable. Therefore, Writ Petition is also liable to be dismissed.

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

7. Death certificate dated 07.10.2023 (Ex.P.3) indicates that Gittipati Siva Prasad purportedly the proprietor of the writ petitioner died on 29.09.2023 i.e., much prior to passing of the impugned orders dated 19.12.2024 and 20.12.2024. It is settled position that an order passed against dead person does not have any legal efficacy.

8. At this stage, it may be appropriate to refer to the relevant portion of decision in W.P No.6029 of 2025, which is applicable to the present facts:

> "6. It is settled law that the assessments and other proceedings can only be initiated against the persons who are living and such proceedings against death person would not be valid. However, the fact remains that, under Section 93 of the GST Act, the dues of the death person can be recovered either

> from the business he had set up or from his estate. In such circumstances, in the absences of any provision, this Court would have to be hold that the only practicable way of settling the affairs of the death person would be to direct the assessment being carried out by involving either the representative or person carrying on the business of a death person or which such business is not being carried on, by involving the legal representative who be holding the estate of the deceased person.
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> 7. In the said circumstances, since the petitioner is the legal representative of the deceased person, being his son, it would be appropriate to set aside the impugned Order, dated 25.01.2024, with a direction to carry out a fresh assessment after involving the petitioner herein, by issuing a notice to the petitioner. Needless to say, any recovery that may be initiated, after an Order of assessment, shall be only against the estate of a deceased person and against the petitioner to the extent of the estate of his deceased father, which is available to the petitioner."

9. In the light of above said decision and the conclusion arrived at supra, the impugned orders dated 19.12.2024 and 20.12.2024 are declared invalid and the same are set-aside.

10. In the result, the writ petition is allowed. However, the 1st respondent is at liberty to issue appropriate notice to the petitioner and proceed with the assessment proceedings after giving due opportunity of hearing to the deponent of the affidavit herein Smt. Gottipati Siva Naga Deepthi.

11. In view of setting side of impugned orders, all consequential proceedings shall stand revoked.

12. Needless to say that 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.

13. There shall be no order as to costs. Miscellaneous petitions, if any, shall stand closed.

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NINALA JAYASURYA, J

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T.C.D.SEKHAR, J

Date: 14.10.2026

Note: Issue C.C today
B/o.
GVK

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THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

AND

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION No. 29968 OF 2026

Dt. 14.10.2026

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