

APHC010403742025



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

[3529]

WEDNESDAY, THE THIRTEENTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 20705/2025

Between:

1.M/S. BROTHERS ENGINEERING AND ERRECTORS LIMITED,, 3-45,
ANDHRA BANK SIDE STREET, IBRAHIMPATNAM, KRISHNA-
521456. REPRESENTED BY ITS MANAGING DIRECTOR, SRI.
VASU PONNORAN, S/O. KANNARAN, AGED ABOUT 80 YEARS.

...PETITIONER

AND

1.THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL
SECRETARY, REVENUE (CT-LL) DEPARTMENT, AP
SECRETARIAT, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT,
AP.

2.THE DEPUTY COMMISSIONERST, SPECIAL CIRCLE,VIJAYAWADA,
O/O. JOINT COMMISSIONER (ST), NO I DIVISION, VIJAYAWADA.

...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 an appropriate Writ, direction or order more particularly in the nature of a Writ of Mandamus declaring that the assessment ASMT-13 order Dt.01-04-2023, 19-07-2023 for the months of 02/2023, 03/2023, 04/2023, 05/2023 passed by the 2nd respondent on best judgment basis without providing any opportunity to the petitioner as illegal arbitrary, contrary to the provisions of the GST Act, 2017, contrary to the

circulars issued by the Central Board of Indirect Taxes and Customs and violative of Articles 14, 19(1)(g) and 265 of the Constitution of the India and consequently set aside the same

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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 to grant stay of all further proceedings, including recovery, pursuant to the orders passed by the 2nd respondent in From ASMT-13 DT. 01-04-2023, 19-07-2023 for the period February, 2023 to May 2023 imposing on IGST of Rs. 2763564/- SGST of Rs. 388924/- and CGST of Rs. 388924/- (total Rs. 3541416/-) pending disposal of the Writ Petition

Counsel for the Petitioner:

1.SINGAM SRINIVASA RAO

Counsel for the Respondent(S):

1.GP FOR COMMERCIAL TAX

The Court made the following Order: (*per Hon'ble Sri Justice R. Raghunandan Rao*)

The petitioner is a registered person under the G.S.T. regime has not filed his returns for the months of February – 2023 to May – 2023. On account of the non-filing of the returns in GSTR-3A Forms, the best judgment assessment order was passed for the month of February – 2023, on 01.04.2023 and the best judgment assessment order was passed for the months of March – 2023 to May – 2023, on 19.07.2023.

2. The petitioner, after passing all these assessment orders, had filed GSTR-3B Forms and had also paid the necessary taxes, in relation to the month of February – 2023, on 09.08.2023 and in relation to the months of March – 2023 to May – 2023, on 13.09.2023.

3. Thereafter, the 2nd respondent, had initiated proceedings for recovery of the dues mentioned under the assessment orders specified above. Aggrieved by the same, the petitioner has approached this Court, by way of the present Writ Petition.

4. Sri Singam Srinivasa Rao, learned counsel for the petitioner, relying upon Section 62 of the Goods and Services Tax Act, 2017 (*herein referred to as 'the G.S.T. Act'*), contends that, the best judgment assessment order, passed in the absence of returns, is deemed to be withdrawn once the dealer files the necessary Forms and pays the tax payable under the said returns within 60 days from the date of receipt of the Order and that, the proviso to Section 62 (2) of the G.S.T. Act, extends this period by another 60 days, if

penalty of Rs.100/- per day of delay is paid. He would submit that, the payments made by the petitioner fall within this period and consequently, the Orders on the basis of which coercive steps are being taken for recovery of tax would have to be treated as withdrawn.

5. On the other hand, the learned Assistant Government Pleader for Commercial Tax appearing for the respondents, contends that the provisions of Section 62 were amended, on 01.10.2023, due to which the original period of 30 days granted for filing of the returns and payment of taxes, had been extended to 60 days and the proviso for extension of further 60 days was brought in only, on 01.10.2023. She would submit that, in such circumstances, the provisions of Section 62 of the G.S.T. Act, would not be available to the petitioner.

6. Learned counsel for the petitioner relies upon the judgment of the Hon'ble High Court of Madras (Madurai Bench), in W.P.(MD) No.18740 of 2024, dated 02.08.2024, wherein a similar issue was considered. The Hon'ble High Court of Madras, after considering similar submissions, had held that in view of the amendment to the Act and the spirit of the amendment, it would be appropriate to condone the delay in the filing of the GSTR-3B returns and consequently, the assessment orders would have to be deemed to be withdrawn.

7. Following the wholesome principle set out by the Hon'ble High Court of Madras, this Writ Petition is allowed, declaring that the assessment orders,

dated 01.04.2023 & 19.07.2023 passed for the months of February – 2023 and March – 2023 to May – 2023 are deemed to have been withdrawn. However, the liability of the petitioner to pay interest on account of the delayed payment of tax, if any, would not be absolved.

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:13.08.2025
KPV

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THE HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

AND

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

WRIT PETITION No:20705 of 2025

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

13.08.2025

KPV