

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

MONDAY, THE TWENTY NINTH DAY OF JULY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO
AND
THE HON'BLE SRI JUSTICE HARINATH.N



WRIT PETITION NO: 14969 OF 2024

Between:

Somaprasanth Karampudi, S/o. Venkateswarlu, Aged 43 years, Occ: Pvt. Employee, Flat No-305, Krishna Sai Towers, Near Blossoms Hospital, Sikhamani Center, Moghalrajapuram. Vijayawada.

...PETITIONER

AND

1. Union of India, Ministry of Finance, Rep. by its Spl. Secretary to GST, 1st Floor, Vyapaar Bhavan, New Delhi-110002
2. Joint Commissioner of Central Tax, Guntur GST Commissionerate, Kannavarithota, Guntur-522004.
3. Dy. Commissioner of Central Tax, Nellore CGST Sub Commissionerate, Nellore.
4. Asst. Commissioner of Central Tax, Nellore GST Division GST Bhavan, Magunta Layout, Nellore.

...RESPONDENTS

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 to issue a appropriate writ, Order or Writ of direction, particularly a Mandamus declaring the orders in Ref. CNo.V/15/82/2019 dated 21.12.2022 of the 3rd respondent thereby passing an order directing the petitioner herein to amount of Rs.46,77,312/-pay an towards CGST and directing the Superintendent of CGST, Nellore to furnish the order copy through RPAD and by email which was not delivered to the petitioner till date and the consequential order of the 4th respondent for attachment of

petitioner property in HNo-2-1-7, Gaddala Gunta, Revenue Ward No- 2, Ongole and calculating Tax of Rs.46,77,312/- and Penalty of Rs.46,77,312/- and interest of Rs.48,25,057/- upto 02.05.2024, as illegal, irregular, without jurisdiction and arbitrary, violative of Articles 14, 21 and 300-A of Constitution of India and consequently suspend the orders in Ref. CNo.V/15/82/2019 dated 21.12.2022 of the 3rd respondent and consequential order of the 4th respondent dated 02.05.2024 of attachment of petitioner property.

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased may be pleased to suspend the orders in Ref. CNo.V/15/82/2019 dated 21.12.2022 of the 3rd respondent and consequential order of the 4th respondent dated 02.05.2024 of attachment of petitioner property in H.No: 2-1-7, Gaddala Gunta, Revenue Ward No: 2, Ongole, Prakasam District pending disposal of the above writ petition.

Counsel for the Petitioner : SRI. M SOLOMON RAJU

**Counsel for the Respondents: SRI B. NARASIMHA SARMA,
ADDITIONAL SOLICITOR GENERAL OF INDIA**

The Court made the following: ORDER



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

[3488]

MONDAY, THE TWENTY NINETH DAY OF JULY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION NO: 14969/2024

Between:

Somaprasanth Karampudi

...PETITIONER

AND

Union Of India and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.M SOLOMON RAJU

Counsel for the Respondent(S):

1.DEPUTY SOLICITOR GENERAL OF INDIA

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

The petitioner was a registered dealer under the Central Goods and Services Tax Act, 2017(herein referred to as the "CGST Act, 2017"). It appears that the said registration was cancelled by an order of cancellation of registration dated 21.02.2019 with effect from 09.03.2019.

2. Thereafter, the 3rd respondent took up assessment of the taxes due for the period October 2017 to March 2019. A show cause notice dated

22.04.2022 is said to have been prepared and sent to the petitioner, calling upon the petitioner to show cause why Rs.46,77,312/- should not be recovered from the petitioner under Section 74 (1) of the CGST Act r/w Section 20 of the Integrated Goods and Services Act, 2017 (herein referred to as "IGST Act 2017"), interest as applicable on the aforesaid amounts and equivalent penalty under Section 74 (1) of the CGST/ SGST Act r/w Section 122 of the CGST Act along with Section 20 of the IGST Act, 2017. No reply was received from the petitioner in this regard, despite service of this notice on the E-Mail ID of the tax payer on 18.05.2022 and 19.05.2022 in terms of Section 169 of the CGST Act, 2017.

3. As no reply had been received, further notices were issued for personal hearing. These notices dated 27.09.2022, 06.10.2022 and 18.10.2022 are said to have been sent under Registered Post with Acknowledgment Due and all these notices were returned with the noting "Left" by the postal authorities. In view of the lack of response by the petitioner, the 3rd respondent is said to have taken up the assessment proceedings on the merits of the case and had confirmed the demand proposed in the show cause notice dated 22.04.2022, by way of an order dated 21.12.2022 bearing Order in Original No.NLR-DC-07-2022-23-GST with DIN No.20221255YK0000000F76.

4. The 4th respondent, in implementation of the order dated 21.12.2022, had issued a notice of attachment dated 02.05.2024 in relation to the property bearing house No.2-1-7, Gaddala Gunta, Revenue Ward No.2, Ongole, Prakasam District.

5. The petitioner being aggrieved by the impugned order of the 3rd respondent bearing No.NLR-DC-07-2022-23 GST with DIN No.20221255YK0000000F76 dated 21.12.2022 and the consequential attachment proceedings of the 4th respondent dated 02.05.2024, has approached this Court, by way of the present Writ Petition, raising various contentions.

6. For the purpose of this writ, the main contention that is now being considered by this Court is the question of violation of principles of natural justice. The case of the petitioner is that none of the notices, that are said to have been sent by the 3rd respondent, had been received by the petitioner and as such the petitioner had no notice of any of the proceedings and the impugned order suffers from violation of principles of natural justice.

7. Smt. Santhi Chandra, learned counsel appearing for the official respondents would submit that though notices sent physically may not have been received by the petitioner, the fact remains that notices sent to the registered E-Mail ID of the petitioner have been received in the said E-Mail ID and consequently, it must be held that such notices have been received by the

petitioner. She would submit that, in such circumstances, there is no violation of the principles of natural justice.

8. The admitted fact is that the registration of the petitioner had been cancelled on 21.02.2019 and all proceedings resulting in the impugned orders had commenced only after the said cancellation of registration. It may also be noted that the registration had been cancelled on the ground that the petitioner was not filing GST returns. These facts coupled with the fact that the physical notices sent to the petitioner being returned with the noting "Left" should have been sufficient for the 3rd respondent to take steps to ascertain the whereabouts of the petitioner and to serve notices at such address. Though it cannot be said that service of notice on the petitioner by way of the E-Mail ID has not been done, the fact remains that the cancellation of the registration could have resulted in the petitioner not looking into the mails sent to the E-Mail ID which was registered with the department.

9. In view of the aforesaid ambiguity, it would only be appropriate to give an opportunity to the petitioner to set out his case. Accordingly, the Writ Petition is allowed, setting aside the order of the 3rd respondent dated 21.12.2022 and remanding it back to the 3rd respondent for adjudication.

10. In view of the fact that the petitioner is now aware of the order passed by the 3rd respondent, the present proceedings shall be treated as notice of the pending assessment before the 3rd respondent and the show

cause notice dated 22.04.2022 as well as the impugned order dated 21.12.2022 shall be treated as show cause notices and the petitioner is granted three (03) weeks time to file his response to these notices. Thereafter, a personal hearing shall be given to the petitioner on 21.08.2024 by the 3rd respondent. In the event of any further time being sought by the petitioner, the same shall be sought by giving the E-Mail ID and the address at which the petitioner can be contacted and notices can be served on the petitioner.

11. In view of the fact that the petitioner has approached this Court at such a belated time, it would also be appropriate that the petitioner shall pay 10% of the disputed tax alone as a pre-condition for being permitted to file his objections. There shall be no order as to costs.

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

//TRUE COPY//

SD/- K.SRINIVASA RAJU
ASSISTANT REGISTRAR


SECTION OFFICER

To,

1. The Special Secretary to GST, Union of India, Ministry of Finance, 1st Floor, Vyapaar Bhavan, New Delhi-110002.
2. The Joint Commissioner of Central Tax, Guntur GST Commissionerate, Kannavarithota, Guntur-522004.
3. The Deputy Commissioner of Central Tax, Nellore CGST Sub Commissionerate, Nellore.
4. The Assistant Commissioner of Central Tax, Nellore GST Division GST Bhavan, Magunta Layout, Nellore.
5. One CC to Sri M. Solomon Raju, Advocate [OPUC]
6. One CC to Sri B. Narasimha Sarma, Additional Solicitor General of India [OPUC]
7. Three C.D. Copies.

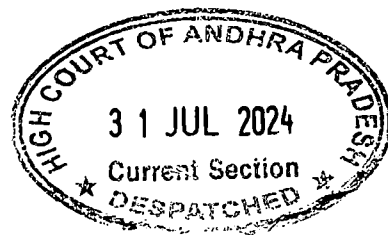
Cnr

HIGH COURT

DATED:29/07/2024

ORDER

WP.No.14969 of 2024



**ALLOWING THE W.P.
WITHOUT COSTS**