Date of reserved for orders : --
Date of pronouncement : 01.07.2026
Date of uploading :

APHC010326542026

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

WEDNESDAY, THE 1st DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 17126/2026

Between:

1. M/S SVG BOREWELLS, PROP. K. GURU PRASAD (DIED), GSTIN 37ANKPK1676M2ZD, REP BY HIS LEGAL HEIR KOSINEPALLI ARAVIND, AGED ABOUT 26 YEARS, H.NO 27-57-18/2-1, PUNGANUR RURAL, PUNGANUR VILLAGE AND MANDAL, CHITTOOR DISTRICT.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, REVENUE (COMMERCIAL TAXES) DEPARTMENT, SECRETARIAT, VELAGAPUDI, GUNTUR DISTRICT - 522238.

2. THE APPELLATE AUTHORITY AND ADDITIONAL COMMISSIONER ST, COMMERCIAL TAXES DEPARTMENT, TIRUPATHI, TIRUPATHI DISTRICT -517501.

3. THE CHIEF COMMISSIONER, (CENTRAL TAX), VISAKHAPATNAM - 530001, ANDHRA PRADESH.

4. THE ADDITIONAL COMMISSIONER ST, LEGAL, A.P., KUNCHANAPALLI, GUNTUR - 522501.

5. THE JOINT COMMISSIONER ST, CHITTOOR, CHITTOOR DISTRICT -

517001.

6. THE ASSISTANT COMMISSIONER ST, PALAMANER CIRCLE, CHITTOOR DIVISION, CHITTOOR DISTRICT - 517001.

...RESPONDENT(S):

Counsel for the Petitioner:

1. RAJESH GODINA

Counsel for the Respondent(S):

1. GP FOR COMMERCIAL TAX

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

Writ Petition No:17126 of 2026

The Court made the following Order: *(per NJS,J)*

Heard Ms. R Saraswathi, learned counsel representing learned counsel for the petitioner. Also heard Mr. S A V Sai Kumar, learned Assistant Government Pleader for Commercial Tax.

2. One Mr. K Guru Prasad, proprietor of M/s. SVG Borewells, a registered dealer under the Goods and Services Tax Act bearing GSTIN No.37ANKPK1676M2ZD was engaged in business of borewells and registration of the same was renewed up to 2019. On 07.06.2024, he passed away.

3. In the meanwhile, it appears that Show Cause Notices were issued pointing out certain discrepancies while scrutiny of tax records for three different periods. Thereafter, respondent No.6 issued separate Proceedings and directed payment of tax, interest and penalty within thirty days from the date of receipt of the said orders. Aggrieved by the same, son of the deceased - tax payer filed appeals and thereafter, present writ petition.

4. Learned counsel while referring to the factual aspects set out in the affidavit filed in support of the writ petition *inter alia* submits that as Mr. K Guru Prasad was alone managing the Proprietary concern and the business was closed from 04.07.2024 onwards, there was no active establishment much less staff or administrative mechanism to receive and respond to departmental

communications. She submits that son of Mr. K Guru Prasad is also not aware of ongoing proceedings nor has he any access to the registered e-mail ID linked with GST portal, which was being used by Auditor of deceased-tax payer. She also submits that the Auditor who was looking after affairs of the firm also did not inform about any of the proceedings much less, the proceedings of the respondent No.6. Be that as it may.

4. Learned counsel also submits that separate Assessment Orders/Proceedings were issued for three tax periods i.e., 2017-18 dated 28.08.2024; 2018-19 dated 10.09.2024; and 2019-220 dated 10.09.2024 against which three appeals *vide* Spl.Apl.No.902, 903 & 913/2025-26/CTR were preferred, however with delay of 475, 461 and 462 days respectively. She submits that the Appellate Authority/respondent No.2 without considering the matter in proper perspective much less by appreciating the undisputed fact that as on the date of issuance of proceedings by respondent No.6, the sole proprietor 'died' and in such circumstances, not only the said proceedings and also subsequent action of the department is legally unsustainable. In the aforementioned stated position, learned counsel seeks to set aside the impugned order dated 30.05.2026 and to pass appropriate orders, as may be deemed just and necessary.

5. In support of her submissions, learned counsel relies on the decision rendered by a co-ordinate Bench of this Court in W.P No.15490 of 2023 dated 19.07.2023 and in W.P No.31675 of 2023 dated 18.12.2023.

6. On the other hand, learned Assistant Government Pleader, made submissions to sustain the order under challenge. He submits that as respondent No.6 issued proceedings after following due procedure, the Assessment Orders/Proceedings cannot be found fault with and further that, as there is an inordinate delay in preferring the appeals, Appellate Authority was right in not condoning the same, more particularly in view of the statutory prescription.

7. We have considered the submissions made and perused material on record.

8. At the outset, it may be appropriate to mention that it is not in dispute Proprietor of M/s. SVG Borewells expired on 07.06.2024 and thereafter, respondent No.6 issued separate proceedings dated 28.08.2024, 10.09.2024 and 10.09.2024 with reference to the tax periods 2017-2018, 2018-2019 and 2019-2020 respectively. It is axiomatic that order/proceedings against a dead person is non-est in law. Obviously, the Assessing Officer without knowing the factum of death of sole proprietor, proceeded further in finalizing the Assessments. Be that as it may.

9. When this aspect was specifically mentioned in the appeal, Appellate Authority ought to have taken cognizance of the said aspect, set aside the proceedings of the proper Officer and remanded the matter for issuance of fresh proceedings by giving opportunity to the representatives of the Proprietary concern.

10. Since the original proceedings of respondent No.6 are non-est in law and the Appellate Order in not condoning the delay in the appeals preferred against such proceedings does not have any legal efficacy, this Court is inclined to set aside the impugned order as also assessment proceedings.

11. Accordingly, Writ Petition is allowed by setting aside the Assessment Orders/Proceedings for the tax periods 2017-2018, 2018-2019 and 2019-2020 dated 28.08.2024, 10.09.2024 and 10.09.2024 respectively and Appellate Order passed thereon in Spl.Apl.No.902, 903 & 913/2025-26/CTR dated 30.05.2026.

12. However, respondent No.6 is at liberty to initiate fresh proceedings after giving due opportunity to the representatives of the proprietary concern. No costs. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE NINALA JAYASURYA

JUSTICE T.C.D.SEKHAR

Date:01.07.2026
Ksj

Whether the order is :
Speaking Yes/No / Reasoned Yes/No
Reportable Yes/No / Non-Reportable Yes/No