IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT PETITION No. 38758 of 2025

DATED : 17.06.2026

Between:

M/s. P.R. Productions

… Petitioner

AND

Assistant Commissioner of Central Tax,
Office of the Deputy/Assistant Commissioner of Central Tax,
Punjagutta Division, Hyderabad and two others

… Respondents

ORDER:

Heard Sri Goondla Venkateswarlu, learned counsel appearing for petitioner and Sri D. Raghavendar Rao, learned Senior Standing Counsel for Central Board of Indirect Taxes and Customs appearing for respondent No.1.

2. The garnishee notice in FORM GST DRC-13 dated 06.11.2025 issued under Rule 145(1) of the Central Goods and Services Tax Rules, 2017 (for short 'the Rules'), read with Section 79 (1) (c) of the Central Goods and Services Tax Act, 2017 (for short 'the Act'), has been challenged by the petitioner on the ground that it does not precede any adjudication.

3. Counter-affidavit has been filed by respondent No.1.

4. Learned counsel for respondent No.1 has submitted that under Section 75(12) of the Act, in the case of self-assessed tax, recourse to Section 79 of the Act can be undertaken without any adjudication proceedings.

5. The present case relates to tax period 2021-22. The self-assessed tax return in respect of which the impugned garnishee notice has been issued is for the period from April, 2021, to September, 2021. What is under dispute is applicability of the explanation to sub-section (12) of Section 75 of the Act introduced with effect from 01.01.2022 by the Finance Act, 2021, which provides that the expression “self-assessed tax” shall include the tax payable in respect of details of outward supplies furnished under Section 37 of the Act, but not included in the return furnished under Section 39 of the Act.

6. Learned counsel for the petitioner submits that the ‘explanation’ shall operate prospectively from the date on which it has been notified.

7. Learned counsel for respondent No.1, on the other hand, submits that it is clarificatory in nature.

8. In the present case, the impugned garnishee notice which covers Rs.44,68,724/- is in respect of discrepancy in the details of outward supplies furnished under Section 37 of the Act but not included in the return under Section 39 of the Act for the relevant tax period.

9. In support of the plea of prospectivity, learned counsel for the petitioner has referred to CBEC Instruction No.01/2022-GST dated 07.01.2022. It lays down the guidelines for recovery proceedings under Section 79 of the Act in the cases covered under explanation to sub-section (12) of Section 75 of the Act. The first paragraph of the guidelines is extracted hereunder for better appreciation.

> "Sub-section (12) of section 75 of the CGST Act, 2017 (hereinafter referred to as "the Act") provides that notwithstanding anything contained in section 73 or section 74 of the Act, where any amount of self-assessed tax in accordance with the return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79. <u>An explanation has been added to sub-section (12) of section 75 vide section 114 of the Finance Act, 2021 with effect from 01.01.2022 to clarify that "self-assessed tax" shall include the tax payable in respect of outward supplies, the details of which have been furnished under section 37, but not included in the return furnished under section 39.</u>"
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> (Emphasis applied)

The CBIC by virtue of this instruction has clarified that the explanation added to sub-section (12) of Section 75 of the Act *vide* Section 114 of the Finance Act, 2021, with effect from 01.01.2022 is to clarify that "self-assessed tax" shall include the tax payable in respect of outward supplies, the details of which have been furnished under Section 37 of the Act, but not included in the return furnished under Section 39 of the Act.

10. In our opinion, the explanation does not impose any additional liability beyond what the petitioner would have been otherwise liable because of the mismatch in the details of outward supplies which have been furnished under Section 37 of the Act, but not included in the return furnished under Section 39 of the Act. The explanation added to sub-section (12) of Section 75 of the Act reads as under:

> "Explanation.- For the purposes of this sub-section, the expression "self-assessed tax" shall include the tax payable in respect of details of outward supplies furnished under section 37, but not included in the return furnished under section 39."

Noticing this discrepancy under Section 75(12) of the Act, the impugned recovery proceedings were initiated. However, though an email was sent to the petitioner on 25.04.2024 for necessary compliance, the provisions of Rule 88C of the Rules were not complied with, as evident from the attachment of the said intimation. Rule 88C of the Rules is extracted hereunder:

> **“88C. Manner of dealing with difference in liability reported in statement of outward supplies and that reported in return.-**(1) Where the tax payable by a registered person, in accordance with the statement of outward supplies furnished by him in FORM GST-1, as amended in FORM GSTR-1A if any, or using the Invoice Furnishing Facility in respect of a tax period, exceeds the amount of tax payable by such person in accordance with the return for that period furnished by him in FORM GSTR-3B, by such amount and such percentage, as may be recommended by the Council, the said registered person shall be intimated of such difference in Part A of **FORM GST DRC-01B**, electronically on the common portal, and a copy of such intimation shall also be sent to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said difference and directing him to-
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> (a) pay the differential tax liability, along with interest under section 50, through FORM GST DRC-03; or
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> (b) explain the aforesaid difference in tax payable on the common portal, within a period of seven days.
>
> (2) The registered person referred to sub-rule (1) shall, upon receipt of the intimation referred to in that sub-rule, either,-
>
> (a) pay the amount of the differential tax liability, as specified in Part A of **FORM GST DRC-01B**, fully or partially, along with interest under section 50, through FORM GST DRC-03 and furnish the details thereof in Part B of **FORM GST DRC-01B** electronically on the common portal; or
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> (b) furnish a reply electronically on the common portal, incorporating reasons in respect of that part of the

differential tax liability that has remained unpaid, if any, in Part B of **FORM GST DRC-01B**,

within the period specified in the said sub-rule.

(3) Where any amount specified in the intimation referred to in sub-rule (1) remains unpaid within the period specified in that sub-rule and where no explanation or reason is furnished by the registered person in default or where the explanation or reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be recoverable in accordance with the provisions of Section 79."

As such, the petitioner could not respond to the intimation required to be issued in the prescribed FORM GST DRC - 01B by the Revenue. The above rule provides that the Proper Officer if not satisfied with the explanation furnished by the registered person in default would initiate the recovery proceedings under Section 79 of the Act.

11. In such circumstances, after consideration of the facts and circumstances of the case and the relevant provisions of the Act and the Rules referred to hereinabove, we are of the view that respondent No.1/Proper Officer would issue the intimation in the prescribed format under Rule 88C of the Rules giving opportunity to the petitioner to furnish explanation, in the prescribed FORM GST DRC-01B, upon consideration of which only, any further action for recovery should be initiated against the petitioner.

12. In the light of what has been stated hereinabove, the impugned garnishee notice issued in FORM GST DRC-13 dated 06.11.2025 is set aside. Needless to say, upon compliance of the procedure prescribed under the relevant provisions of the Act and the Rules, it would be open for the Revenue to initiate proceedings if the petitioner fails to furnish satisfactory explanation to the intimation under FORM GST DRC-01B.

The instant Writ Petition is disposed of in the aforesaid manner. There shall be no order as to costs.

Miscellaneous applications, if any pending, shall stand closed.

APARESH KUMAR SINGH, CJ

G.M.MOHIUDDIN, J

17th JUNE 2026.

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