APHC010285792026

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

WEDNESDAY, THE 15th DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 14961/2026

Between:

1. SHRI SARATH CHOWDARY MULLAPUDI, DOOR 4-68-1/1 D, LAWSONS BAY COLONY, VISAKHAPATNAM,ANDHRA PRADESH -530 017.

...PETITIONER

AND

1. THE ASSISTANT COMMISSIONER STATE TAX, CHINA WALTAIR CIRCLE, VISAKHAPATNAM-1 DIVISION, D. NO. 1-106/13, KAVI HOUSE, SECTOR 8, MVP COLONY, VISAKHAPATNAM, ANDHRA PRADESH - 530 017.

2. THE ADDITIONAL COMMISSIONER ST, APPELLATE AUTHORITY, VIJAYAWADA, D NO. 40-5-19/9B, BACK OF NVKR TOWERS, MOGALRAJAPURAM, VIJAYAWADA, ANDHRA PRADESH - 520 010.

3. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PRINCIPAL SECRETARY, REVENUE DEPARTMENT (COMMERCIAL TAX), A.P. SECRETARIAT, VELEGAPUDI - 522 238.

4. UNION OF INDIA, DEPARTMENT OF REVENUE, REPRESENTED BY ITS SECRETARY (REVENUE), NORTH

BLOCK, NEW DELHI - 110 001

...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 to issue a writ of mandamus or any other writ, direction or order quashing the proceedings of the 1St Respondent in Notice issued in Form GST DRC-13 dated 21.05.2026 for attachment of the bank account of the Petitioner maintained with Karnataka Bank Limited for recovering the GST demand confirmed in Assessment Order issued in Form GST ASMT-13 dated 19.01.2023, along with Form GST DRC-07 vide Ref. No. ZD3701230081109 dated 19.01.2023 for November 2022 without considering the GSTR-3B return filed by the Petitioner on 17.02.2023 as being arbitrary, in contravention of Section 62(2) of the GST Act, 2017, without application of mind, without jurisdiction, unconstitutional, unreasonable and contrary to the provisions of the GST Act, 2017 and the rules made there under B. The Hon'ble Court may be pleased to issue a writ of mandamus or any other writ, direction or order quashing the proceedings of the 1st Respondent in the Best Judgment Assessment Order passed in Form GST ASMT-13 dated 19.01.2023, along with Form GST DRC-07 vide Ref. No. ZD3701230081109 dated 19.01.2023 for November 2022 levying GST of Rs. 32,82,612/- along with interest under Section 50 of the GST Act, 2017 without providing an opportunity of personal hearing, in contravention of the Circular No. 06/2020 (State) dated 10.01.2020 issued by the Government of Andhra Pradesh and without DIN as being arbitrary, without jurisdiction, unconstitutional, unreasonable and against the principles of natural justice and contrary to the provisions of the GST Act, 2017 and the rules made thereunder C. Quashing the proceedings of the 2nd Respondent in Endorsement dated 25.06.2025 vide A.O. No. DIN3725062531010 rejecting the appeal filed by the Petitioner on the ground of limitation D. And to pass

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 to stay the operation of the proceedings of the 1st Respondent in the Best Judgment Assessment Order passed in Form GST ASMT-13 dated 19.01.2023, along with Form GST DRC 07 vide Ref No. ZD3701230081109 dated 19.01.2023 for November 2022, in the interest of justice and pass

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 to set aside the Notice issued in Form GST DRC-13 dated 21.05.2026 for attachment of the bank account of the Petitioner maintained with Karnataka Bank Limited, in the interest of justice and pass

IA NO: 3 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 May be pleased to permit the Petitioner to file the additional affidavit along with material papers and the Honble Court may peruse it as a part and parcel of the Writ Petition.

Counsel for the Petitioner:

1. ANIL KUMAR BEZAWADA

Counsel for the Respondent(S):

1. GP FOR COMMERCIAL TAX

The Court made the following:

HON'BLE SRI JUSTICE NINALA JAYASURYA
AND
HON'BLE SRI JUSTICE T.C.D. SEKHAR

WP No.14961 OF 2026

ORDER:- *(Per Hon'ble Sri Justice T.C.D. Sekhar)*

1. The petitioner is a registered dealer under GST Act vide GSTIN No.37AADFI7341D1ZK on the rolls of State Tax Authorities. The petitioner did not file GSTR-3B return for the period November, 2022. The 1st respondent issued notice under Section 46 of the GST Act and despite the same, the petitioner did not turn up. In those circumstances, the 1st respondent has passed assessment order dt.19.01.2023 by exercising power under Section 62 of the said Act.

2. It is the case of the petitioner that he filed GSTR-3B return on 17.02.2023 by remitting late fee and interest. The counsel for the petitioner would further submit that despite filing return along with late fee and interest, the respondent authorities are insisting to pay the tax demanded through order passed under Section 62 of the Act. He would further submit that once the return is filed, the order passed under Section 62 would be deemed to have been withdrawn as per Section 62 upon payment of necessary late fee and interest. He would further submit that, in view of the fact that the return has been already

filed, the respondent authorities cannot insist to pay the tax demanded under the Impugned Assessment Order dt.19.01.2023.

3. Sri M.V. Krishna Rao, learned Government Pleader for Commercial Tax, on instructions would submit that the petitioner has filed return for the tax period under dispute along with late fee and interest. He would further submit that appropriate orders be passed in the instant writ petition.

4. As per Section 62 of GST Act the Proper Officer may proceed to assess the tax liability of the registered person to the best of his judgment taking into account all the relevant material, which is available or which he has gathered and issue an Assessment Order, within a period of five (05) years from the date specified under Section 44 for furnishing of annual return for the financial year to which the tax not paid relates to.

5. Further as per Section 62(2), if the registered person furnishes valid return within sixty (60) days of service of Assessment Order under sub section (1), the said Assessment Order shall be deemed to have been withdrawn, but the liability for payment of interest under sub section (1) of section 50 or for payment of late fee under section 47 shall continue.

6. In the case on hand, subsequent to the passing of assessment order under Section 62, the petitioner had filed return for the period under dispute along with late fee and interest on 17.02.2023 and the same is not disputed by the learned Government Pleader for Commercial Tax. In such circumstances, the Assessment Order dt.19.01.2023 would be deemed to have been withdrawn in view of the fact that the petitioner had filed relevant GSTR 3B return for the month of November, 2022.

7. For the foregoing reasons, the assessment order dated 19.01.2023 passed by the 1^{st} respondent for the tax period November, 2022 is deemed to have been withdrawn and the same is set aside.

8. Accordingly, the Writ Petition is allowed. There shall be no order as to costs.

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

JUSTICE NINALA JAYASURYA

JUSTICE T.C.D. SEKHAR

15.07.2026
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THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

AND

THE HONOURABLE SRI JUSTICE T.C.D. SEKHAR

WP No.14961 of 2026
Date 15.07.2026

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