APHC010462262026

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

FRIDAY, THE 11th DAY OF SEPTEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 25983 OF 2026

Between:

1. G V CHITHRA, w/o Late G.V. Prasad (Proprietor of M/s. Sri Kanaka Durga Hardware), aged 42 years, Occ. Housewife, 15-2474, Palamaner Road, Chittoor, Chittoor District, Andhra Pradesh -517001.

...Petitioner

AND

1. THE ASSISTANT COMMISSIONER ST, Chittoor Circle, Chittoor Division, Next to Devi Theatre, Kattamanchi, Tirupati Road, Chittoor, Chittoor District, Andhra Pradesh -517001.

2. The State of Andhra Pradesh, Rep. by the Principal Secretary to the Government, Revenue (CT) Department, A.P. Secretariat Buildings, Velagapudi, Guntur District, Andhra Pradesh.

3. The Union of India, Rep. by the Secretary (Finance), Ministry of Finance, North Block, New Delhi-110001.

...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 toissue an appropriate Writ, Order or Direction, more particularly in the nature of MANDAMUS declaring that the action of the First Respondent

in passing the impugned Ex-Parte 'Summary of the Order Under Section 74 of the APGST Act, 2017', in Form DRC-07, vide Order No. DIN3731012525856, dated 31-01- 2025, for the Tax Periods 01-07-2017 to 31-03-2018 (F.Y. 2017-18) and 01-04-2018 to 31-09-2018 (F.Y. 2018-19) under the GST Acts, 2017, against M/s. Sri Kanaka Durga Hardware, of which my late husband (Late Sri G.V. Prasad) was the sole Proprietor, and which closed on the expiry of my husband on 12-05-2020, which is an Order passed against a 'Dead Person' and 'Non-Existent Business', and which was passed for Multiple Assessment Years and by invoking S. 74 of the GST Acts, 2017, even though the ingredients for invoking the same are not available, and trying to recover the tax, interest and penalty from the Petitioner, as arbitrary, capricious, mischievous, illegal, without jurisdiction, barred by limitation and consequently declare the same as void, non-est, not an order in the eye of law, illegal and even on merits not sustainable and consequently set aside the same and declare that it cannot be enforced against the Petitioner

Counsel for the Petitioner: G NARENDRA CHETTY

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court made the following order:

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION No: 25983 OF 2026

ORDER: *(per Hon'ble Sri Justice Ninala Jayasurya)*

Heard Mr. Shankar Gadhamsetty, learned counsel representing Mr. Narendra Shetty, learned counsel for the petitioner, through online and Mr.S.A.V. Sai Kumar, learned Assistant Government Pleader for Commercial Tax, representing respondent Nos.1 & 2. With their consent, the writ petition is disposed of at the stage of admission.

2. Aggrieved by the Order of Summary dated 31.01.2025 against proprietary concern M/s. Sri Kanaka Durga Hardwares, the present writ petition is filed.

3. As per the averments made in the affidavit, the husband of the deponent was proprietor of the said concern and he expired on 12.05.2020 due to heart attack. Respondent authorities passed Order of Summary dated 31.01.2025 against the proprietor, since the husband of the petitioner being proprietor was looking after the financial activities of the business, initiation of proceedings by the respondents was not within the knowledge of the deponent. Be that as it may.

4. Learned counsel for the petitioner referring to writ petition *inter alia* submits that Mr. G.V. Prasad alone was managing the proprietary concern and pursuant his death, the business came to standstill and thereafter wife of the deceased started business operations. He submits that the respondent

authorities has passed impugned ex parte order against the dead person, who cannot file any reply/objection and without affording opportunity of personal hearing to the petitioner. He also submits that the impugned order covering two financial years is contrary to provisions of Section 74 of GST Act. Placing reliance on the decision of a Coordinate Bench of this Court in W.P.No.11899 of 2024 dated 09.07.2025, he seeks to allow the writ petition by setting aside the impugned order.

5. *Per contra*, learned Assistant Government Pleader sought to sustain the impugned order. He submits that the remedy of appeal has not been availed and the writ petition is filed with a delay, therefore, the same is liable to be dismissed.

6. This Court has considered the submissions made and perused the material on record.

7. Death certificate dated 01.06.2020 (Ex.P.2) indicates that G.V. Prasad purportedly the proprietor died on 12.05.2020, i.e., much prior to passing of the impugned order dated 31.01.2025. It is settled position that any order passed against a dead person does not have legal efficacy.

8. At this stage, it may be appropriate to refer to the relevant portion of decision in W.P.No.6029 of 2025, which is applicable to the present facts:-

> "6. It is settled law that the assessments and other proceedings can only be initiated against the persons who are living and such proceedings against death person would not be valid. However, the fact remains that, under Section 93 of the GST Act, the dues of the death person can be recovered either

> from the business he had set up or from his estate. In such circumstances, in the absences of any provision, this Court would have to be hold that the only practicable way of settling the affairs of the death person would be to direct the assessment being carried out by involving either the representative or person carrying on the business of a death person or which such business is not being carried on, by involving the legal representative who be holding the estate of the deceased person.
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> 7. In the said circumstances, since the petitioner is the legal representative of the deceased person, being his son, it would be appropriate to set aside the impugned Order, dated 25.01.2024, with a direction to carry out a fresh assessment after involving the petitioner herein, by issuing a notice to the petitioner. Needless to say, any recovery that may be initiated, after an Order of assessment, shall be only against the estate of a deceased person and against the petitioner to the extent of the estate of his deceased father, which is available to the petitioner."

9. In the light of above said decision and the conclusion arrived at supra, the impugned order dated 31.01.2025 is declared invalid and the same is set-aside.

10. In the result, the writ petition is allowed. However, the 1st respondent is at liberty to issue appropriate notice to the petitioner and proceed with the assessment proceedings after giving due opportunity of hearing to the deponent of the affidavit herein Smt. G.V.Chithra.

11. Needless to say that the period from the date of passing of the impugned order till the date of receipt of this order shall be excluded for the purpose of limitation.

12. There shall be no order as to costs. Miscellaneous petitions, if any, shall stand closed.

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NINALA JAYASURYA, J

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T.C.D.SEKHAR, J

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THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

AND

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION No. 25983 OF 2026

Dt. 11.09.2026

GVK