APHC010501042026

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

WEDNESDAY, THE 23rd DAY OF SEPTEMBER 2026

PRESENT

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

THE HON'BLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION No: 27255 of 2026

Between:

1. LATE SRI KOMMURU KOTESWARA RAO, PROPRIETOR, M/S. SRI SAI CEMENTS STEELS, GSTIN 37AYJPK3151B1ZQ, OLD NO. 3-88/1, NEW No. 2-264, KETHANAKONDA, IBRAHIMPATNAM, KRISHNA DISTRICT, ANDHRA PRADESH 521456. REP. BY ITS LEGAL HEIR, SRI KOMMURU SIVA RAMA KRISHNA, S/O LATE KOMMURU KOTESWARA RAO, AGE ABOUT YEARS OCC: BUSINESS.

...PETITIONER

AND

1. THE DEPUTY ASSISTANT COMMISSIONERST, IBRAHIMPATNAM CIRCLE, VIJAYAWADA I DIVISION, D. No. 74-14-2B, SASANKA TOWERS, KRISHNA NAGAR, VIJAYAWADA, KRISHNA DISTRICT, ANDHRA PRADESH.520 007.
2. THE ASSISTANT COMMISSIONER ST, IBRAHIMPATNAM CIRCLE, VIJAYAWADA I DIVISION, D. NO. 74-14-2B, SASANKA TOWERS, KRISHNA NAGAR, VIJAYAWADA, KRISHNA DISTRICT, ANDHRA PRADESH.520 007
3. THE STATE OF ANDHRA PRADESH, REP. BY ITS, PRINCIPAL SECRETARY, REVENUE (CT) DEPARTMENT, SECRETARIAT, VELAGAPUDI, AMARAVATI, ANDHRA PRADESH.522 238
4. THE UNION OF INDIA, REP. BY ITS, SECRETARY, MINISTRY OF FINANCE NORTH BLOCK, NEW DELHI 110 001.

5. THE CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS, REP. BY ITS, CHAIRMAN, DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, NORTH BLOCK, NEW DELHI 110 001.

...RESPONDENT(S):

Counsel for the Petitioner:

Mr.VENKATRAM REDDY MANTUR

Counsel for the Respondent(S):

GP FOR COMMERCIAL TAX

The Court made the following order: *(Per NJS, J)*

Heard Mr.M.Venkatram Reddy, learned counsel for the petitioner. Also heard Mr.R.Kalayan Chakravarthy, learned Government Pleader for Commercial Tax for the respondents.

2. One Mr.Kommuru Koteswara Rao, proprietor of M/s.Sri Sai Cements & Steels, a registered dealer under the Goods and Services Tax Act bearing GST No.37AYJPK3151 B1ZQ was engaged in business of cement and steels. He passed away on 07.03.2022. Subsequently, 1st respondent issued FORM GST ASMT-10 dated 17.08.2023 under Section 61 read with Rule 99 (1) of the APGST Act, 2017, alleging certain discrepancies in the returns filed for the tax period 2017-18. Thereafter, though the son / legal representative of the deceased Kommuru Siva Rama Krishna informed about the death of his father and that the GST registration of the firm was cancelled from 03.08.2022, the 1st respondent proceeded further and Orders along with Summary of Orders for three tax periods in the name of deceased proprietor, were passed. Aggrieved by the same, son of the deceased-tax payer, filed the present writ petition.

3. Learned counsel for the petitioner while referring to the factual aspects as set out in the affidavit filed in support of the writ petition *inter alia* submits that the three orders dated 13.12.2023, 30.12.2023 and 12.01.2024 for the tax periods 2019-2020, 2017-2018 and 2018-2019 impugned herein were passed, without following the mandatory procedure contemplated under Section 93 of

the CGST / APGST Act, 2017. He submits that none of the said three impugned orders bear a Document Identification Number (DIN) or signature. He further contended that even the original assessment orders for the said tax periods against the dead person is non-est in the eye of law and liable to be set aside. He accordingly, seeks to set aside the impugned orders and to pass appropriate orders, as may be deemed just and necessary.

4. He further submitted that writ petitions filed in similar circumstances were entertained and disposed of by setting aside the orders of assessment. In support of his submissions, learned counsel relies on the decisions rendered by a Division Bench of this Court in W.P.No.6029 of 2025 dated 24.12.2025 and W.P.No.17126 of 2026 dated 01.07.2026.

5. On the other hand, learned Assistant Government Pleader, made submissions to sustain the orders under challenge. He submits that the petitioner instead of availing the remedy of appeal under Section 112 of the Goods and Service Tax Act, filed the present writ petition and the same is not maintainable. Accordingly, he seeks dismissal of the writ petition.

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

7. At the outset, it may be appropriate to mention that it is not in dispute Proprietor of M/s. Sri Sai Cements & Steels expired on 07.03.2022 and thereafter, the respondent No.1 issued separate proceedings dated 13.12.2023, 30.12.2023 and 12.01.2024 with reference to the tax periods

2019-2020, 2017-2018 and 2018-2019 respectively. It is axiomatic that orders / proceedings against a dead person is non-est in law. In the present case, the Assessing Officer though informed and had knowledge of death of sole proprietor, proceeded further in finalizing the Assessments, which cannot be countenanced.

8. The question of the effect of non-inclusion on DIN number on proceedings, under the G.S.T. Act, came to be considered by the Hon'ble Supreme Court in the case of **Pradeep Goyal Vs. Union of India & Ors**[1]. The Hon'ble Supreme Court, after noticing the provisions of the Act and the circular issued by the Central Board of Indirect Taxes and Customs, had held that an order, which does not contain a DIN number would be invalid.

9. A Division Bench of this Court in the case of **M/s. Cluster Enterprises Vs. The Deputy Assistant Commissioner (ST)-2, Kadapa**[2], on the basis of the Circular, dated 23.12.2019, bearing No.128/47/2019-GST, issued by the C.B.I.C., had held that non-mention of a DIN number would mitigate against the validity of such proceedings. Another Division Bench of this Court in the case of **Sai Manikanta Electrical Contractors Vs. The Deputy Commissioner, Special Circle, Visakhapatnam**[3], had also held that non-mention of a DIN number would require the order to be set aside.

10. In W.P.No.6029 of 2025 dated 24.12.2025, a Co-ordinate Bench of this Court held as follows:

[1] 2022 (63) G.S.T.L. 286 (SC)
[2] 2024 (88) G.S.T.L. 179 (A.P.)
[3] 2024 (88) G.S.T.L. 303 (A.P.)

"5……Section 93 (1) (A) of the GST Act provides for recovery of the taxes from the business of the death person if the same is being carried on by his legal representative of any other person. Section 93 (1) (b) of the GST Act states that the dues of the death person can be recovered from the estate of the deceased if the business is discontinued. This provision essentially relates to recovery of tax and other amounts due against a death person. This provision does not deal with however assessment is to be carried out against a death person after he has passed away.

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 absence 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.

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."

11. Accordingly, this Writ Petition is allowed by setting aside the Assessment Orders/Proceedings for the tax periods 2019-2020, 2017-2018 and 2018-2019 dated 13.12.2023, 30.12.2023 and 12.01.2024 respectively with the liberty to the respondent No.1 to conduct fresh assessment, after giving a notice to the representatives of the proprietary concern, in accordance with Law. No costs.

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

JUSTICE NINALA JAYASURYA

JUSTICE T.C.D.SEKHAR

Date: 23.09.2026
BLV

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

THE HON'BLE SRI JUSTICE T.C.D.SEKHAR

W.P.No.27255 of 2026

Dt: 23.09.2026

BLV