APHC010536712026

**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI**

**Bench
Sr.No:-9
[3543]**

WRIT PETITION No.29484 of 2026

Between

M/s. Chairman,

...Petitioner

Vs.

The Assistant Commissioner State Tax and Others

...Respondent(s)

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**CORAM : SRI JUSTICE NINALA JAYASURYA
SRI JUSTICE T.C.D.SEKHAR**

DATE : 14th October 2026

Present :

Advocate for Petitioner: JYOTHI RATNA ANUMOLU

Advocate(s) for Respondent(s): GP FOR COMMERCIAL TAX,

HON'BLE SRI JUSTICE NINALA JAYASURYA

AND

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

WP No.29484 OF 2026

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

1. The petitioner is a committee functioning under the Janmabhoomi Programme undertook the work of "Neeru-Chettu De-Silting of Busi Kalva Drain" at the village limits of Vadapalli, Kovvur Mandal, West Godavari District during the Financial Year 2016-17 on a public welfare and no profit basis. The Executive Engineer, Irrigation Division, Eluru entered into agreement dt.18.02.2017 with the petitioner in relation to the works referred to herein above for an amount of Rs.9,23,383/-.

2. The petitioner being an unauthorized dealer, had received consideration from the Contractee Department, however it could not report the corresponding turnover and paid tax thereon to the Tax Department. In those circumstances, the 1st respondent upon verification of records found that the petitioner received certain TDS credits in the year 2018-19 and onwards, however failed to report the said turnover in the returns nor paid applicable taxes thereon, accordingly show cause notice in Form GST ASMT-14,

dt.10.11.2025 was issued to the petitioner calling for objectIons as to why the assessment shall not be taken up against the petitioner under Section 63 of GST Act. Thereafter, personal hearing notice dt.03.12.2025 was issued to the petitioner, to which the petitioner sought for adjournment through email dt.10.12.2025. Further, another personal hearing notice was issued, again the petitioner sought for granting time. In those circumstances, the 3rd respondent issued endorsement-cum-final reminder-3 notice, dt.26.12.2025 and thereafter proceeded with the assessment. Accordingly, order of assessment dt.29.12.2025 came to be passed against the petitioner, whereunder an amount of Rs.44,74,110/- was levied including tax interest and penalty. Aggrieved by the said order, the present writ petition is filed.

3. It is the specific case of the petitioner that, the value of the work executed during the relevant year 2018-19 was Rs.9,23,383/-. Copy of the agreement dt.18.02.2017 entered into between the petitioner and the Executive Engineer, FAC. Irrigation, Eluru was filed along with the writ petition. The counsel for the petitioner would further submit that despite requesting time through email dt.22.12.2025, the 1st respondent issued endorsement-cum-final reminder dt.26.12.2025 and proceeded to pass assessment

order on 29.12.2025. By referring to the impugned assessment order, the counsel for the petitioner would submit that no sufficient opportunity was granted to the petitioner before making the assessment. She would further submit that the 1st respondent passed best judgment by taking into consideration of the turn over recorded in GSTR-7 by the Tax Deductor and passed order under Section 63 of GST Act with Artificial demand of Rs.44,74,110/- as against the value of the work of Rs.9,23,383/- executed by the petitioner. She would further submit that having come to know about the assessment order, petitioner filed rectification application dt.04.02.2026 before the 2nd respondent and the same is pending adjudication. Pending the rectification application, the 1st respondent issued urgent notice dt.08.07.2026 for recovery of the tax dues under the order under challenge.

4. On the other hand, Sri S.A.V.Sai Kumar, learned Assistant Government Pleader for Commercial Taxes made submissions by placing reliance on the instructions dt.13.10.2026 furnished by the 1st respondent. He would submit that despite granting adequate opportunity to the petitioner, it did not choose to file objections or produced records for determining the actual turn over. He would further submit that the order was passed in

December, 2025 whereas the writ petition was filed on 08.10.2026 and no explanation was offered for the delay in approaching this Court. He would further submit that any application for rectification is required to be submitted electronically and in the event of cancellation of registration the tax payer can submit the same manually also. He further submits that, in the instant case, no such application either manually or electronically furnished by the petitioner, therefore the question of consideration of the said application does not arise.

5. We have considered the respective submissions made by both the counsel. It is discernible from the record that though the petitioner was sought for adjournment on 22.12.2025, the 1st respondent issued another final reminder notice dt.26.12.2025 and thereafter within a period of three (03) days passed the assessment order under challenge. Further a perusal of the material available on record, it is evident that the petitioner had made an attempt to file rectification application electronically, but the same was not allowed by the portal as the petitioner has no logging credentials or online access inasmuch as the department created temporary ID, so as to pass the assessment order. In those circumstances, the petitioner filed rectification application dt.04.02.2026 before the 2nd respondent

with the screen shot showing that, the petitioner made an attempt to file the same electronically, however the same was declined as there was no login credentials or online access to the petitioner.

6. Further, a perusal of the instructions dt.13.10.2026 furnished by the 1st respondent, it is evident that while passing the assessment order, exact turnover of the petitioner could not be ascertained as the relevant records were allegedly withheld. Further, the 1st respondent without determining the actual turnover of the petitioner, raised a demand of Rs.44,74,110/- as against the value of work of Rs.9,23,383/- executed by the petitioner during the year 2018-19. Apart from the same, it is not the case of the 1st respondent that the petitioner has executed some other works during the relevant period. Further, it is contended by the counsel for the petitioner that, the works executed by the petitioner are exempt under Sl.No.3 of Notification No.12/2017-Central Tax (Rate), dt.28.06.2017.

7. By taking into consideration of the facts of the case, it is evident that the petitioner subsequent to passing of assessment order made an attempt to file rectification application, but the same was not allowed by the portal. The petitioner thereafter manually made rectification application dt.04.02.2026 to the 2nd respondent.

As already observed supra, the impugned assessment order came to be passed inasmuch as the exact turnover could not be ascertained by the 1st respondent while making the assessment. Further, the request of the petitioner for adjournment was turned down by the 1st respondent and after issuing final notice dt.26.12.2025 and passed assessment order on 29.12.2025 i.e., to say within a period of three (03) days. From the above, it is clear that, though three personal hearing notices were issued to the petitioner, as already recorded supra, the 1st respondent proceeded with the assessment and raised demand of Rs.44,74,110/- as against the value of work of Rs.9,23,383/- executed by the petitioner during the relevant period, which is not sustainable under law.

8. In the circumstances, we deem it appropriate to dispose of the writ petition by directing the petitioner to submit a fresh rectification application manually to the 1st respondent, within a period of two (02) weeks from the date of receipt of copy of this order. Upon receipt of such application, the 1st respondent shall consider the same in accordance with law, after affording opportunity of being heard to the petitioner and pass appropriate orders thereon. Till orders are passed on the rectification application, the respondents are directed not to take any coercive

steps against the petitioner, pursuant to impugned assessment order dt.29.12.2025.

09. Accordingly, the writ petition is disposed of. There shall be no order as to costs.

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

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JUSTICE NINALA JAYASURYA

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JUSTICE T.C.D. SEKHAR

14.10.2026
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HON'BLE SRI JUSTICE NINALA JAYASURYA
AND

THE HONOURABLE SRI JUSTICE T.C.D. SEKHAR

WP No.29484 OF 2026
Date 14.10.2026

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