APHC010544032026

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

**Bench Sr.No:-16
[3543]**

WRIT PETITION NO: 29844 of 2026

M/s Budda Chandramohan Reddy ...Petitioner

Vs.

The State Of Andhra Pradesh and Others ...Respondent(s)

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

DATE : 13th October 2026

Present :

Advocate for Petitioner: SRINIVASA RAO KUDUPUDI

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

HON'BLE SRI JUSTICE NINALA JAYASURYA

AND

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

WP No.29844 OF 2026

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

1. The petitioner is a registered a dealer under GST Act having engaged in execution of works contract for the Statement Government and the local bodies. It is further case of the petitioner that, he was awarded civil works by the Irrigation Department in Kurnool District under various agreements during the period 2018-19 onwards. The works allotted to the petitioner involve earth excavation work amounting to more than 75% of the total work. It is further case of the petitioner that the rate of tax on the works executed by the petitioner is @ 5% under the scheme "Neeru Chettu Works".

2. It is further case of the petitioner that though the works were completed during the year 2018-19, the contractee department paid tax @ 5% to the petitioner while making the payment, and the contractee department has uploaded the TDS particulars in GSTR-7 in the year 2023-24 for the works executed by the petitioner during the year 2018-19.

3. Upon verification of the returns filed by the petitioner, the 4th respondent found discrepancies while comparing the turn over & tax as per TDS details in GSTR-7 and taxable turn over & tax liability as per GSTR-3B and accordingly issued show cause notice in Form GST DRC-01, dt.21.11.2024 calling for objections from the petitioners as to why action shall not be initiated against him. As there was no response from the petitioner, the 4th respondent proceeded with the assessment by construing that the petitioner had no objection to the proposal made in the show cause notice. Accordingly, the impugned assessment order in Form GST DRC-01, dt.24.01.2025 was passed against the petitioner demanding Rs.11,17,834/- which includes tax, interest and penalty. Aggrieved by the said order, the present writ petition is filed.

4. Heard counsel for the petitioner and Sri S.A.V.Sai Kumar, learned Assistant Government Pleader for Commercial Tax.

5. Perused the material on record.

6. The contention of the petitioner is that though the works have been executed during the period 2018-19, the actual payment was made by the contractee department in the year 2023. He would further submit that as per the agreement and as per the notifications

issued by CBIC the rate of tax on the works executed by him was @ 5% during the relevant period. The counsel for the petitioner would further submit that though the petitioner's registration is substituting, however he is not executing any works. He would further submit that in order to receive payments from the contractee department the registration of the petitioner shall be kept intact otherwise he will not receive the payments from the contractee department.

7. It is further case of the petitioner that, the 4th respondent without appreciating the factual matrix of the case, levied tax @ 18%, though the works executed by the petitioner was to be taxed @ 5% during the relevant period i.e., 2018-19. He would further submit that no personal hearing was offered while passing the impugned assessment order as per Section 75(4) of the GST Act, the same would amount to violation of principles of natural justice and no sufficient opportunity was afforded to him.

8. As can be seen from the record, it is evident that the petitioner was issued with show cause notice in Form GST DRC-01, dt.21.11.2024. The 4th respondent passed the impugned assessment order dt.24.01.2025. It is discernible from the record, while passing the order under challenge, admittedly personal hearing was not offered to the petitioner as required under Section

75(4) of the GST Act, and the same would amount to violation of principles of natural justice. On this ground alone, the order under challenge is liable to be set aside.

9. Be that as it may, the counsel for the petitioner would submit that, the passing of impugned assessment order came to the knowledge of the petitioner upon issuance of notice for auction of immovable/movable property under Section 79(1) (d) of GST Act. Immediately, thereafter the petitioner has paid tax @ 5% in relation to the impugned assessment order and prayed to set aside the order under challenge inasmuch he has received tax @ 5% from the contractee department and the same has been remitted to the department in Form GST DRC-03, dt.21.09.2026. Copy of the same is filed along with the writ petition.

10. Having considered the submissions made by the counsel for the petitioner and by taking into consideration of the fact that the petitioner has paid the tax received from the contractee department through GST DRC-03, dt.21.09.2026, we deem it appropriate to set aside the impugned assessment order dt.24.01.2025 passed by the 4th respondent. Apart from the same, as rightly pointed out by the counsel for the petitioner, while passing the impugned order the 4th respondent did not afford oportunity of

being heard to the petitioner as required under Section 75(4) of GST Act.

11. In the result, the impugned assesment order dt.24.01.2025 is set aside and the matter is remanded to the 4th respondent for making fresh assessment, after issuing notice and opportunity of hearing to the petitioner.

12. Accordingly, the writ petition is allowed.

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

13.10.2026
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HON'BLE SRI JUSTICE NINALA JAYASURYA
AND

THE HONOURABLE SRI JUSTICE T.C.D. SEKHAR

WP No.29844 OF 2026
Date 13.10.2026

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