

APHC010159252024



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

[3529]

TUESDAY, THE THIRTY FIRST DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 7781/2026

Between:

1.M/S.KOMMERA SRINIVASA RAO,, 855/27-1, PILLUTIA ROAD,
PIDUGURALLA-522 413. PALNADU DISTRICT. REP. BY ITS
PROPRIETOR MR.KOMMERA SRINIVASA RAO

...PETITIONER

AND

- 1.THE ASSISTANT COMMISSIONER, (ST)(FAC), PIDUGURALLA. -
522413
- 2.THE DEPUTY ASSISTANT COMMISSIONERST, PIDUGURALLA. -
522413
- 3.THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL
SECRETARY, REVENUE (CT) DEPARTMENT, A.P. SECRETARIAT,
AMARAVAT-522237

...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 topleased to issue Wirt of Mandamus or any other appropriate Writ or Order or Direction declaring the action of the 1st Respondent and 2nd Respondent in passing the Proceedings, dated 04.05.2023 in Form GST DRC-07, and Summary of the Order in Form GST DRC-07, dated 04.05.2023 under Section 74(1) of Central Goods and Service Tax Act, 2017 for the tax

period April, 2020 to March, 2021, levying tax, penalty and interest of Rs.5,09,624/- under the SGST Act 2017 and Rs.5,09,624/- under the CGST Act 2017, totaling to Rs.10,19,248/-, without any signature on the Proceedings of the 1st Respondent in the capacity of Assistant Commissioner (ST)(FAC), Piduguralla and without signature on Summary of the Order in Form GST DRC-07 of the 2nd Respondent in the capacity of Deputy Assistant Commissioner (ST), Piduguralla, without serving the Notices and Orders in physical mode, without DIN, as arbitrary, contrary to law, against the provisions of the CGST / SGST Act 2017, without providing sufficient opportunity of being heard to the Petitioner, is in violation of Principles of Natural Justice and Rule of Law and consequently set aside the Proceedings, dated 04.05.2023 in Form GST DRC-07, and Summary of the Order in Form GST DRC-07, dated 04.05.2023, as null and void and 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 condone the delay of 701 days in re-submission of the returned Writ Bundle in W.P.(SR) No. 12891 of 2024, before the Registry of the Hon'ble Court, in the interest of justice and equity, as otherwise the Petitioner will be put to severe loss and hardship.

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 suspend the operation of the Proceedings, dated 04.05.2023 in Form GST DRC- 07 passed by the 1st Respondent, and Summary of the Order in Form GST DRC-07, dated 04.05.2023 passed by the 2nd Respondent for the tax period April, 2020 to March, 2021 under the Central Goods and Service Tax Act 2017 and State Goods and Service Tax Act 2017, pending disposal of the above Writ Petition,

Counsel for the Petitioner:

1. SHAIK JEELANI BASHA

Counsel for the Respondent(S):

1. GP FOR COMMERCIAL TAX

The Court made the following order:

(per Hon'ble Sri Justice R. Raghunandan Rao)

The petitioner was served with an assessment order in Form GST DRC-07, dated 04.05.2023, passed by the 1st respondent, under the Goods and Service Tax Act, 2017 [for short "the GST Act"], for the tax period 2020-21. This order has been challenged by the petitioner in the present writ petition.

2. This assessment order, in Form GST DRC-07, is challenged by the petitioner, on various grounds, including the ground that the said proceeding does not contain the signature of the assessing officer and also DIN number, on the impugned summary of the assessment order.

3. Learned Government Pleader for Commercial Tax, on instructions, submits that there is no signature of the assessing officer and does not contain DIN number, on the impugned summary of the assessment order.

4. The effect of the absence of the signature, on an assessment order was earlier considered by this Court, in the case of **A.V. Bhanoji Row Vs. The Assistant Commissioner (ST)**, in W.P.No.2830 of 2023, decided on 14.02.2023. A Division Bench of this Court, had held that the signature, on the assessment order, cannot be dispensed with and that the provisions of Sections-160 & 169 of the Central Goods and Service Tax Act, 2017, would not rectify such a defect. Following this Judgment, another Division Bench of

this Court, in the case of **M/s. SRK Enterprises Vs. Assistant Commissioner**, in W.P.No.29397 of 2023, decided on 10.11.2023, had set aside the impugned assessment order.

5. Another Division Bench of this Court by its Judgment, dated 19.03.2024, in the case of **M/s. SRS Traders Vs The. Assistant Commissioner ST & ors**, in W.P.No.5238 of 2024, following the aforesaid two Judgments, had held that the absence of the signature of the assessing officer, on the assessment order, would render the assessment order invalid and set aside the said order.

6. The question of the effect of non-inclusion of 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 (*herein referred to as "C.B.I.C."*), had held that an order, which does not contain a DIN number would be invalid.

7. 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

¹ 2022 (63) G.S.T.L. 286 (SC)

² 2024 (88) G.S.T.L. 179 (A.P.)

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.

8. In view of the aforesaid judgments and the circular issued by the C.B.I.C., the non-mention of a DIN number and absence of the signature of the assessing officer, in the impugned assessment order would have to be set aside.

9. This Court is also cogent of the fact that the impugned summary of the assessment order has been passed some time back and the present Writ Petition has been filed with delay. However, Rule 26(3) of the CGST Rules, 2017 stipulates that service of notice or orders, without signature, would not amount to service at all. The Hon'ble High Court of Madras, in *T.V.L. Deepa Traders vs. The Deputy Commissioner* (W.P.No.19277 of 2024, dated 13.08.2024) had held the same view. Consequently, there is no service of the impugned order even as of today, on account of the absence of signature on the impugned proceeding. In those circumstances, the delay in approaching this Court would not be a relevant factor.

10. Accordingly, this Writ Petition is disposed of, setting aside the impugned assessment order in Form GST DRC-07, dated 04.05.2023, issued

³ 2024 (88) G.S.T.L. 303 (A.P.)

by the 1st respondent, with liberty to the 1st respondent to conduct fresh assessment, after giving notice and by assigning a signature to the said order. The period from the date of the impugned assessment order, till the date of receipt of this order shall be excluded for the purposes of limitation. There shall be no order as to costs.

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

R RAGHUNANDAN RAO, J

T.C.D. SEKHAR, J

Date: 31.03.2026

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THE HON'BLE SRI JUSTICE R RAGHUNANDAN RAO

AND

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

WRIT PETITION NO: 7781 of 2026

(per Hon'ble Sri Justice R. Raghunandan Rao)

31.03.2026

MJA