

APHC010299242020



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

**[3488]**

FRIDAY, THE TWENTY FIRST DAY OF FEBRUARY  
TWO THOUSAND AND TWENTY FIVE

**PRESENT**

**THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO**

**THE HONOURABLE SRI JUSTICE HARINATH.N**

**WRIT PETITION NO: 19920/2020**

**Between:**

M/s Diwakar Road Lines,

**...PETITIONER**

**AND**

The Union Of India and Others

**...RESPONDENT(S)**

**Counsel for the Petitioner:**

1.HARISH KUMAR RASINENI

**Counsel for the Respondent(S):**

1.NAGARAJU NAGURU

2.DILIP JAYARAM S (CENTRAL GOVERNMENT COUNSEL)

3.Y N VIVEKANANDA

**The Court made the following Order:** *(per Hon'ble Sri Justice R. Raghunandan Rao)*

Heard Sri Harish Kumar Rasineni, learned counsel for the petitioner and Sri Dilip Jayaram, learned counsel for the 1<sup>st</sup> respondent and Sri Nagaraju Naguru, learned counsel for the 2<sup>nd</sup> respondent and Sri Y.N. Vivekananda, learned Standing Counsel for the respondents 3 to 6.

2. The petitioner operates air conditioned buses and non-air conditioned buses, under the contract carriage permits, between Anantapur and Hyderabad and other routes. The petitioner had received a notice, dated 30.05.2016, calling upon the petitioner to register with the Tax Department and pay service tax on the operation of the air conditioned buses. The petitioner was also informed that transportation of passengers by air conditioned buses, on contract carriage, had become taxable from 11.07.2014 onwards. The petitioner is said to have responded to the said notice by way of reply, dated 01.05.2019, furnishing the details of the booking done through an online ticketing agency.

3. The petitioner contends that, at that stage, the petitioner became aware of a tax dispute resolution scheme known as “Sabkha Vishwas (Legacy Dispute Resolution)” Scheme, 2019, (hereinafter referred to as the scheme) where under the tax payers are given an opportunity of voluntary disclosure and compounding of the amounts payable. The petitioner is said to have made an application under this scheme and was waiting for a reply. At that stage, the petitioner again received a summons, dated 06.10.2020, asking the petitioner to appear before the 6<sup>th</sup> respondent authority, in relation to the tax returns pertaining to the periods 2014-2015 to 2017-2018. The petitioner is then said to have made enquiries about her application under the scheme and was informed that her application had been rejected.

4. The petitioner being aggrieved by this Order of rejection for one time settlement of service taxes has approached this Court by way of the present Writ Petition.

5. The case of the petitioner is that any person who has a dispute with the service tax authority can apply under this scheme for a one time settlement and liquidation of all past disputes under the Acts enumerated in the scheme, including Central Excise and the Finance Acts, containing the service tax provisions. The petitioner also states that any person to whom a notice had been issued or where appeals, arising out of such show-cause notices, were pending, as on 30.06.2019 would be eligible for getting relief under this scheme. The petitioner contends that the notice, dated 30.05.2016, is sufficient to bring the petitioner under the ambit of the scheme and the order of rejection is clearly impermissible.

6. The petitioner also relied upon a communication, dated 28.05.2019 that is said to have been issued, by the Superintendent of Central Tax, Anantapur-2 GST Range, to contend that the same is sufficient to bring the petitioner under the ambit of the scheme.

7. Sri Y.N. Vivekananda, learned Standing Counsel for the respondents 3 to 6 has filed a counter affidavit. In this counter affidavit, the respondents contend that the said letter, dated 28.05.2019, is an unauthorized bogus communication issued by the Superintendent of Central Tax, Anantapur-2 GST Range. The respondents contend that any notice of liability

etc can be issued only by the Superintendent or the jurisdictional Assistant Commissioner (JAC), Anantapur Division, whereas the notice is said to have issued by the Superintendent of Central Tax, Anantapur-2 GST Range. It is contended that such a communication is wholly without jurisdiction and non-est. It is further contended that the said communication does not refer to the correspondence, dated 08.07.2006 & 10.10.2006, which required the petitioner to submit the financial records and the same insufficient to show the said document is an unauthorized document. The respondents also contend that the reasons and grounds set out by the petitioner in the application filed under the scheme are also misleading and that is sufficient to reject the application of the petitioner under the scheme.

8. Apart from the above contentions, the respondents also contend that the petitioner was required to make full and complete disclosure of the material facts while approaching this Court and the same has not been done by the petitioner as the figures obtained from the income tax authorities show that different figures are being furnished by the petitioner to the income tax authorities on one hand and to the service tax authorities on the other hand.

9. The respondents also states that while the communication, dated 28.05.2019, of the Superintendent of Central Tax, Anantapur-2 GST Range, is said to have assessed the service tax liability of the petitioner at Rs.66.93 lakhs. The actual tax liability, which was arrived at, on the basis of the income tax records was Rs.4.71 cores and the same had already been

confirmed by an Order-in-Original bearing No.TTD-EXCUS-000-COM-01/2024-25, dated 29.06.2024.

10. Sabkha Vishwas (Legacy Dispute Resolution) Scheme, 2019 was brought in by way of the Finance Bill and subsequently, by way of Notification No.05/2019 Central Excise-NT, dated 21.08.2019. Under the provisions of this scheme, it is applicable to all amounts payable under the Central Excise Act and various other Acts including the Finance Acts and was applicable to “tax dues”. The conditions in which the scheme could be applicable were also set out. Essentially, for the purposes of this case, the petitioner would be entitled to the benefit of the scheme if the petitioner had received a show-cause notice, on before 30.06.2019 setting out the amount payable by the petitioner. The notices which are relied upon by the petitioner, from this purpose are the notice, dated 30.05.2016, and the notice, dated 28.05.2019.

11. A perusal of the notice, dated 30.05.2016 would show that no amount of tax was estimated. The said notice only stated that the petitioner had not registered herself under the service tax regime and the petitioner was called upon to pay all applicable service tax dues immediately. This notice cannot be said to be a notice quantifying the amounts payable by the petitioner and as such this notice would not assist the petitioner in claiming benefits under this scheme.

12. The notice, dated 28.05.2019 sets out an amount of Rs.66.93 lakhs being tax payable by the petitioner. This notice would have been

sufficient to give the benefit of the scheme to the petitioner. However, this notice is disputed by the respondents on the ground that the said notice has been issued by a person who was not competent to issue the said notice nor had jurisdiction to issue such a notice. The respondents would also contend that, various features in the said notice makes it amply clear that the said notice was not issued, in the usual course, and appears to have been interpolated. One of the grounds for such a contention, by the respondents, is the fact that there was no entry in the outward register regarding this notice. Further, the petitioner had already suffered an order of assessment, for the relevant period.

13. In the circumstances, this Court is of the opinion that there is no material to show that the petitioner is entitled to the benefit of the scheme.

14. Sri Harish Kumar Rasineni, learned counsel for the petitioner places reliance upon the Judgment of the Division Bench of this Court, by an Common Order dated 21.12.2020, in W.P.Nos.16315 & 16539 of 2020. Apart from this, the learned counsel for the petitioner also relies upon the Judgment of the Karnataka High Court in the case of *Jagadish Advertising Vs. Designated Committee, (Karnataka)*<sup>1</sup>.

15. In the case before a Division Bench of this Court, the issue that had come up before the Court was whether a letter, dated 20.06.2019, directing payment of service tax, to the petitioner therein, was sufficient to

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<sup>1</sup> 2020(43) GSTL 659

bring the petitioner therein under the ambit of the scheme. The Division Bench, on the basis of the Order of rejection, dated 24.07.2020, in that case, had held that there had been a quantification of service tax prior to 30.06.2019, and that the petitioner therein was entitled to the benefit of the scheme. The said judgment, which revolves on the facts of that case, would not be applicable as the petitioner has not succeeded in convincing the Court that a show-cause notice quantifying the amount payable by the petitioner, had been issued prior to 30.06.2019.

16. The Karnataka High Court had held that creation of a remarks column and assigning reasons for rejection by the Designated Committee, under the scheme, was not permissible as there was no such prescription in the statutory form. Consequently, the Learned Single Judge set aside the order of rejection as the committee did not have any authority to go into such reasons.

17. In the present case, the Designated Committee had set out the reasons for rejection as filing of bogus certificates and notices. This Court is of the opinion that, where applications had been filed by producing documents which are not genuine, the same can be rejected by the Designated Committee. Any other view, would mean that a person claiming the benefit of the scheme can come forward with any kind of document and the Designated Committee is precluded from going into the question of whether the said document is genuine or not. Such a view, would result in extreme situations.

18. In the circumstances, we do not find any reason to interfere with the order of rejection of the application of the petitioner and accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

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

**R. RAGHUNANDAN RAO, J.**

**HARINATH.N, J.**

BSM

**HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO**

**AND**

**HONOURABLE SRI JUSTICE HARINATH.N**

**WRIT PETITION No.19920 of 2020**

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

**Date: 21.02.2025**

BSM