

APHC010324242025



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

[3529]

MONDAY, THE TWENTY THIRD DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 16393/2025

Between:

1. KOPERLA VIJAYA BHASKAR, 8-522-17, ANJALIAH ROAD,
PANDARIPURAM, ONGOLE, ANDHRA PRADESH 523002.

...PETITIONER

AND

1. THE DEPUTY ASSISTANT COMMISSIONER ST II,
MARKAPUR CIRCLE, MARKAPUR.

2. THE DEPUTY ASSISTANT COMMISSIONER ST I,
MARKAPUR CIRCLE, MARKAPUR.

3. THE DEPUTY ASSISTANT COMMISSIONER 1 ST,
ONGOLE -1, ONGOLE.

4. THE DEPUTY ASSISTANT COMMISSIONER II ST,
ONGOLE -1, ONGOLE.

5. THE ASSISTANT COMMISSIONER ST, MARKAPUR,
MARKAPUR.

6. THE ASSISTANT COMMISSIONER ST I, ONGOLE -1,
ONGOLE.

7. THE JOINT COMMISSIONER ST, NELLORE DIVISION,

NELLORE.

8. THE CHIEF COMMISSIONER ST, OFFICE OF THE COMMISSIONER OF STATE TAX, KUNCHANAPALLY, ANDHRA PRADESH.
9. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PRINCIPAL SECRETARY, REVENUE COMMERCIAL TAX (REVENUE -CT), SECRETARIAT BUILDINGS VELAGAPUDI AMARAVATHI

...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 to may be pleased to issue an appropriate Writ, Order or Direction more particularly in the nature of a Writ of Mandamus or any other appropriate writ, declaring (a) The action of the Respondents in passing Rectification Orders vide Reference No.ZD370125038112V, dated 25.01.2025 for FY 2019-20, Reference No.ZD370125038115P, dated 25.01.2025 for FY 2020-21, Reference No.ZD370125038118J, dated 25.01.2025 for FY 2021-22, Reference No.ZD370125038031X, dated 24.01.2025 for FY 2022-23 and re-Rectifications Orders vide Reference No. ZD370225026435J dated 15.02.2025 for FY 2020-21 passed by Respondent No.3, and be pleased to quash the same as being passed without a reasoned order in violation of the binding directions of this Hon ble Court in W.P.No.27307 of 2024 without due appreciation of the facts apparent on the face of record and the earlier prayers in W.P. No. 8386 of 2023 reflecting non-application of independent mind and in gross violation of the principles of natural justice, particularly by denying the Petitioner s legal counsel and without a fair opportunity of the personal hearing on 20.01.2025 and not considering the facts as with its evidences, including the illegal approach adopted by Respondent No. 1 through Form GST INS-01 dated 26.10.2022 (generated online) as it was modified as 28.10.2022 with a pen, as without jurisdiction, arbitrary, illegal, contrary to Section 61,74, 75(3) to 75(8), 83, 160(2), 161, 107 of APGST Act 2017 0 (b)The inaction of the Respondent(s) in not entertaining the Petitioner s representations dated 07.04.2025 under Section 160(2) of the APGST Act, 2017 and under the Right to Infatuation Act, 2005 as

arbitrary, illegal and violative of Articles 14 and 21 of the Constitution of India and consequently set aside the impugned Rectification of Orders dated 24.01.2025, 25.01.2025 (in 3 Nos), Re-Rectification of Orders dated 15.02.2025 including Orders of the Respondent-2 dated 17.04.2023 and pass such

IA NO: 1 OF 2025

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 stay of all further proceedings of the Rectification of Orders vide Reference No. ZD370125038118J, dated 25.01.2025 for FY 2021-22, Reference No ZD370125038031X, dated 24.01.2025 for FY 2022-23 and re Rectifications Orders vide Reference No. ZD370225026435J dated 15.02.2025 for FY 2020-21 pending disposal of the above Writ Petition as otherwise the Petitioner will be put to severe loss and hardship

IA NO: 2 OF 2025

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 For the reasons stated in the accompanying affidavit, It is also prayed to direct the Respondent/Respondents to remove the Bank attachments and 3rd Party attachments with Form GST DRC-13, dated 11.10.2023 and Form GST DRC-13 dated 14.11.2023 pending disposal of the above Writ Petition as otherwise the Petitioner will be put to serve loss and hardship

IA NO: 3 OF 2025

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 For the reasons stated in the accompanying affidavit, It is also prayed to impose cost on the Respondent(s) and to pay to the Petitioner in deem fit and proper in the facts and circumstances of the case, for having persistently and consistently, without any valid reasons, vitiated the closure of the Petitioner's business including loss of alone contract jeopardized the Petitioner's rights and interests or mental harassment and trauma inflicted upon the Petitioner

contrary to the Preamble, Article 13, 14, 19(l)(g), 20, 21 of the Constitution of India despite of its facts and rectification of applications and Orders as its violates Section 161, 83 of the APGST Act 2017.

IA NO: 4 OF 2025

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 receive the counter copies on record by allowing the leave petition in the above writ petition 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 may grant leave to file the Reply to the Counter Affidavit of Respondent-4 and prayed to pass

Counsel for the Petitioner:

1.KOTHA LAKSHMIDHAR

Counsel for the Respondent(S):

1.GP FOR COMMERCIAL TAX

2.ARAVALA RAMA RAO(SC FOR APSRTC KKAC)

The Court made the following:

HON'BLE SRI JUSTICE RAO RAGHUNANDAN RAO

AND

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

WP No.16393 OF 2025

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

1. The petitioner is a registered dealer under Goods and Service Tax Act, having engaged in the business of providing man power services to APSPDCL for the work of continuous spot electricity billing in specified areas. Pursuant to inspection conducted by the 2nd respondent, the petitioner was directed to submit all the books of accounts in relation to his business for the tax period from 2019-2020 to 2022-2023 for causing necessary verification. It appears that the petitioner has not produced the books of accounts before the 2nd respondent.

2. It was identified that the petitioner has received TDS amounts, but failed to declare the same in GSTR-3B returns. In view thereof, it came to light that the petitioner has suppressed outward supplies to a tune of Rs.2,53,21,014/- and proposed to tax on the said turn over. Accordingly, the petitioner was issued pre-intimation notice in Form DRC-01A, dt.28.11.2022. As the

petitioner did not file objections, he was served with show cause notice in Form DRC-01, dt.30.12.2022 under Section 74 of GST Act, 2017 and the same was served through mail to the petitioner, apart from uploading the same on the portal. Having received the show cause notice, the petitioner has not filed objections to the same. In those circumstances, the 2nd respondent passed assessment order dt.17.04.2023 against the petitioner raising a demand of Rs.1,01,05,575/- towards tax interest and penalty in relation to the period from 2019-2020 to 2022-2023.

3. It is further case of the petitioner that, his registration under the GST act was cancelled by order dt.23.06.2022 as the petitioner did not file GSTR-3B returns. Questioning the said order, the petitioner filed writ petition vide W.P.No.8386 of 2023 before this Court and the same was disposed of by order dt.04.05.2023, directing the petitioner to make an application for revocation of cancellation of registration as per Notification No.3 of 2023, dt.31.03.2023 issued by Central Board of Indirect Taxes and Customs. In pursuance thereof, the petitioners' registration got restored.

4. Be that as it may, after the order of assessment, the petitioner subsequently filed GSTR-3B returns and filed rectification applications dt.06.07.2023 and 08.07.2023 under Section 161 of CGST Act. When the said applications were not considered, he approached this Court by filing writ petition vide W.P.No.27307 of 2024 and the same was disposed of directing the authorities to pass appropriate orders on the rectification application filed by the petitioner within a period of four (4) weeks from the date of receipt of the order. Pursuant to the said order, the applications of the petitioner were considered and accordingly rectification orders were issued and the same are being impugned in the present writ petition.

5. The respondents filed counter-affidavit *inter alia* contending that the writ petition is not maintainable as the petitioner has got an effective alternative remedy of appeal against the orders under challenge. It was further contended that the tax payer having received the notices did not choose to file any objections to the same. In the absence of explanation, the respondents have rightly passed assessment order. It was further contended that, the rectification applications filed by the

petitioners were considered and accordingly demand was raised and there is no illegality in the orders impugned.

6. Heard counsel for the petitioner and Smt.Disha Chowdary, learned Assistant Government Pleader for Commercial Taxes.

7. Perused the record.

8. A perusal of the record, it is clear that the respondent authorities have passed assessment order dt.17.04.2023 after following the procedure contemplated under law. It is also not in dispute that the petitioner having received pre-intimation notice and show cause notice, did not choose to file objections to the said notices and therefore the respondents having verified that the petitioner has suppressed outward supplies, passed assessment order.

9. It is pertinent to note that, the petitioner did not challenge the said assessment order dt.17.04.2023. After receipt of the said order, the petitioner made applications for rectifications on dt.06.07.2023 and 08.07.2023 under Section 161 of CGST Act. Further, the said applications were also considered and accordingly the orders under challenge were passed by the

respondents, which are under challenged in the present writ petition.

10. On perusal of the averments made in the affidavit filed in support of the writ petition, absolutely nothing is stated as to the illegality committed by the respondent authorities except making bald allegations that the respondents have not followed the procedure contemplated under law, nothing is placed on record to substantiate the said contention. Further, on perusal of the record, it is succinctly clear that before passing orders on the rectification applications, the petitioner was issued notice dt.18.01.2025 asking him to attend for personal hearing to be conducted on 20.01.2025. Accordingly, the petitioner attended for personal hearing on the said date and the objections raised by him were also considered and passed orders on the rectification applications dt.06.07.2023 and 08.07.2023, which are being impugned in the present writ petition.

11. As already noted supra, the petitioner has not challenged the assessment order dt.17.04.2023. Further, as per Section 161 of GST Act, the authorities are empowered to rectify any error which is on the face of record in such decision or order

or notice or certificate or any other document. In the case on hand, as observed, the applications filed by the petitioner were considered and orders were passed. If at all, the petitioner is agreed the said orders, he ought to have challenged the same by filing appeal as provided under the Act. Therefore, the present writ petition cannot be entertained in view of involvement of disputed questions of fact, which cannot be gone into while exercising power under Article 226 of the Constitution of India.

12. For the foregoing reasons, this Court is not inclined to exercise its extraordinary original jurisdiction vested in it by virtue of Article 226 of the Constitution of India and accordingly the writ petition is dismissed leaving it open to the petitioner to avail the remedies available under law.

There shall be no order as to costs. As a sequel, pending applications, if any shall stand closed.

JUSTICE RAO RAGHUNANDAN RAO

JUSTICE T.C.D. SEKHAR

23.02.2026
DR

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THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

AND

THE HONOURABLE SRI JUSTICE T.C.D. SEKHAR

WP No.16393 OF 2025
Date 23.02.2026

DR