APHC010440452024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3508]**
(Special Original Jurisdiction)

WEDNESDAY ,THE NINETEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

WRIT PETITION NO: 22837/2024

Between:

M/s Sri Ramalingeswara Traders, **...PETITIONER**

AND

Assistant Commissioner and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. SUDHESHNA YAKKALA

Counsel for the Respondent(S):

1. GP FOR COMMERCIAL TAX

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

The petitioner was served with an assessment order in Form GST DRC-07, dated 18.07.2023, passed by the 1st respondent, under the Goods and Service Tax Act, 2017 [for short "the GST Act"], for the period 2020 to 2021. 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 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 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 *non-est* and 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 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.

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[1] **2022 (63) G.S.T.L. 286 (SC)**
[2] **2024 (88) G.S.T.L. 179 (A.P.)**
[3] **2024 (88) G.S.T.L. 303 (A.P.)**

9. Accordingly, this Writ Petition is disposed of setting aside the impugned assessment order in Form GST DRC-07, dated 18.07.2023, issued 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.

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R. RAGHUNANDAN RAO, J

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MAHESWARA RAO KUNCHEAM, J

RJS

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

AND

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

WRIT PETITION No.22837 of 2024

(per Hon'ble Sri Justice R Raghunandan Rao)

19.02.2025

RJS