

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

(Special Original Jurisdiction)

WEDNESDAY, THE NINETEENTH DAY OF FEBRUARY

TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

AND

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

WRIT PETITION NO: 24429 OF 2024

Between:

M/s.Yasaswi Services, D.No. 5-269, Poranki, Prabhu Nagar, Vijayawada, State of Andhra Pradesh, Rep. by its Proprietor Mr.Chennupati Haranadh Kumar

...PETITIONER

AND

1. The Additional Commissioner (ST), Appellate Authority, Vijayawada.
2. The Assistant Commissioner (ST), Penamaluru.
3. The State of Andhra Pradesh, Rep. by its Principal Secretary, Revenue (CT) Department, Andhra Pradesh Secretariat, Amaravati.
4. The Union of India, Rep. by its Secretary, Department of Revenue, Ministry of Finance, New Delhi.

...RESPONDENTS

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 issue Writ of Mandamus or any other appropriate Writ or Order or direction declaring- (i) the action of the 2nd Respondent in passing the Order for Cancellation of Registration, dated 21.08.2023, cancelling the Registration Certificate with retrospective effect from 05.07.2023 is not justified and the same is arbitrary, contrary to the provisions of the Central Goods and Service Tax Act 2017 / State Goods and Service Tax act 2017, against Article 14, 19(1)(g) and 21 of the Constitution of India and the same



is in violation of Principles of Natural Justice and Rule of Law, and consequently declare that the Order for Cancellation of Registration in Form GST REG-19, dated 21.08.2023 passed by the 2nd Respondent, as null and void, and (ii) Consequently set aside/quash the Endorsement Proceedings, dated 27.08.2024 issued by the 1st Respondent and the Order for Cancellation of Registration Certificate, dated 21.08.2023 by directing the 2nd Respondent to restore the Registration Certificate, in the interest of justice, (iii) pray to condone the delay of 255 days in filing the appeal before the 1st Respondent in the interest of justice and more particularly the 1st Respondent has no power to condone the delay beyond 30 days in addition to three months limitation as per Section 107 of the GST Act 2017.

IA NO: 1 OF 2024

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 Order for Cancellation of Registration in Form GST REG-19, dated 21.08.2023 passed by the 2nd Respondent, including the Appeal Rejection Order of the 1st Respondent vide Endorsement, dated 27.08.2024, in the interest of Justice and equity, pending disposal of the above Writ Petition, as otherwise, the Petitioner will be put to severe loss and hardship.

Counsel for the Petitioner: SRI SHAIK ALTAF

Counsel for the Respondent Nos.1 to 3: GP FOR COMMERCIAL TAX

**Counsel for the Respondent No.4: SRI PASALA PONNA RAO, DEPUTY
SOLICITOR GENERAL OF INDIA**

The Court made the following: ORDER

APHC010446962024

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

[3508]

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: 24429/2024**Between:**

M/s.yasaswi Services, ...PETITIONER

AND

The Additional Commissioner St and Others ...RESPONDENT(S)

Counsel for the Petitioner:

1. SHAIK ALTAF

Counsel for the Respondent(S):

1. GP FOR COMMERCIAL TAX

The Court made the following ORDER:

(Per Hon'ble Sri Justice R. RaghuNandan Rao)

Heard Sri Shaik Altaf, learned counsel appearing for the petitioner and learned G.P. for Sales Tax appearing for respondents 1 & 2 and learned Central Government Standing Counsel appearing for respondent No.4.

2. The petitioner was registered under the General Sales Tax Act, 2005. A show cause notice, dated 05.07.2023, was issued by the 2nd

respondent calling upon the petitioner to show cause as to why the registration of the petitioner should not be cancelled. Thereafter, an order of cancellation was passed by the 2nd respondent, on 21.08.2023.

3. The petitioner contends that he was unaware of these proceedings as he had not received the show cause notice. It was only later that the petitioner came to know of these proceedings and had filed an appeal before the 1st respondent on 21.08.2024 with a delay of 255 days. The 1st respondent, by Endorsement, dated 27.08.2024, had rejected the appeal on the ground that the 1st respondent did not have power to condone the delay of more than 30 days in filing the appeal, while there was a delay of 255 days in filing the appeal by the petitioner.

4. Aggrieved by the order of cancellation of registration, dated 21.08.2024, the petitioner has approached this Court by way of the present writ petition.

5. The petitioner has raised various grounds assailing the order of cancellation of registration as well as the order of rejection of appeal. One of the grounds raised by the petitioner was that the show cause notice, dated 05.07.2023, did not contain DIN number and that the same had not been served on him, resulting in violation of the principles of natural justice.

6. The learned Government Pleader admits that the show cause notice does not contain DIN number.

7. The effect of non-affixture of DIN number on the proceedings initiated by the authorities, under GST Act, had come up for consideration before this Court on various occasions.

8. A Division Bench of this Court in the case of *M/s. Cluster Enterprises Vs. The Deputy Assistant Commissioner (ST)-2, Kadapa*¹, 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*², had also held that non-mention of a DIN number would require the order to be set aside.

9. Following the said judgment, it would have to be declared that the show cause notice, dated 05.07.2023, is non-est. Consequently, the order of cancellation of registration, which is based on the aforesaid show cause notice, would also have to fail.

10. Accordingly, the show cause notice as well as the order of cancellation of registration, dated 05.07.2023 and 21.08.2023 respectively, are set aside and the matter is remanded back to the 1st respondent for initiation of further proceedings, after due notice and opportunity of hearing being given to the petitioner.

¹ 2024 (88) G.S.T.L. 179 (A.P.)

² 2024 (88) G.S.T.L. 303 (A.P.)

11. In view of the fact that the order of cancellation has been set aside, the challenge to the order of rejection of appeal becomes irrelevant and would be infructuous.

12. Accordingly, the writ petition is disposed of. There shall be no order as to costs. As a sequel, pending miscellaneous applications, if any, shall stand closed.

SD/- K. TATA RAO
DEPUTY REGISTRAR
//TRUE COPY//

SECTION OFFICER

To,

1. The Additional Commissioner (ST), Appellate Authority, Vijayawada.
2. The Assistant Commissioner (ST), Penamaluru.
3. The Principal Secretary, Revenue (CT) Department, State of Andhra Pradesh, Andhra Pradesh Secretariat, Amaravati.
4. The Secretary, Department of Revenue, Ministry of Finance, Union of India, New Delhi.
5. One CC to Sri Shaik Altaf, Advocate [OPUC]
6. One CC to Sri Pasala Ponna Rao, Deputy Solicitor General of India, High Court of A.P. at Amaravati[OPUC]
7. Two CCs to GP for Commercial Tax, High Court of Andhra Pradesh.

[OUT]

8. Three CD Copies.

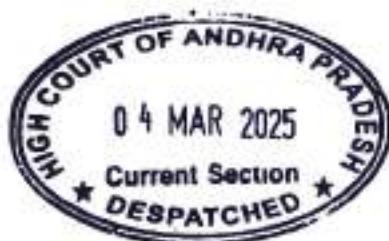
ssb

HIGH COURT

DATED:19/02/2025

ORDER

WP.No.24429 of 2024



DISPOSING OF THE W.P. WITHOUT COSTS