

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

THURSDAY, THE FIFTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

**THE HON'BLE SRI JUSTICE SUJOY PAUL
AND
THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**

WRIT PETITION NO: 24412 OF 2024

Between:

M/s. Jain Housing and Constructions Limited, Represented by its Director. Having Registered Office at. Mr. Sanjay Sachin Mehta No. 98/99, Habibullah Road, T. Nagar Chennai - 600017. and Branch Office at. 4th Floor, Club House, Jains Carlton Creek Seriliampally Mandal, RR District Sreenidhi Global School, Gachibowli, Hyderabad, Rangareddy, Telangana - 500008. CIN. U29309TG1986PLC006714

...PETITIONER

AND

1. Additional Commissioner, Office of the Commissioner of Central Tax Ranga Reddy GST Commissionerate GST Bhavan, H. No. 1-98/7/43 VIP Hills, Jaihind Enclave Madhapur, Hyderabad - 500081.
2. The Union of India, Ministry of Finance, Income Tax Department, 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 a direction, order or writ more particularly one in the nature of WRIT OF CERTIORARI by calling for the records on the file of the 1st Respondent in issuing the impugned Order-in-Original No.11/2024-25-Adjn(ADC)-GST in DIN No. 20240456YQ0000 00FFEO dated 23.04.2024 under Section 73 of the Central Goods and Services Tax Act, 2017 for the Financial Year 2018-2019 and quash the same as arbitrary, illegal and non-est

IA NO: 2 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 stay all further proceedings, pursuant to the impugned Order-in-Original No. 11/2024-25-Adjn(ADC)-GST in DIN No. 20240456YQ000000FFEO dated 23.04.2024 under Section 73 of the Central Goods and Services Tax Act, 2017 passed by the 1st

Respondent against the Petitioner pending disposal of the writ Petition and thus render justice.

Counsel for the Petitioner: SRI K. GOVINDA RAO

**Counsel for Respondent No. 1: SRI DOMINIC FERNANDES
SENIOR STANDING COUNSEL FOR CBIC**

**Counsel for Respondent No. 2: SRI GADI PRAVEEN KUMAR,
DEPUTY SOLCITOR GENERAL**

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE SUJOY PAUL

AND

THE HONOURABLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

WRIT PETITION No.24412 of 2024

ORDER (per Hon'ble SP,J)

Sri K. Govinda Rao, learned counsel, appears for the petitioner, Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, appears for respondent No. 1 and Sri B. Mukherjee, learned counsel representing Sri Gadi Praveen Kumar, learned Deputy Solicitor General of India, appears for respondent No. 2.

2. Learned counsel for the petitioner submits that the petitioner received a show-cause notice issued by the respondent No. 1. Although petitioner filed a reply, he did not raise objection regarding jurisdiction of the authority who has issued the notice. By taking this Court to page No. 50, which deals with "*jurisdiction and officers*", learned counsel for the petitioner submits that the petitioner's registration is at Gachibowli GST Division, which is at Ranga Reddy District. The respondent No. 1 did not have jurisdiction to issue the impugned show-cause notice. Thus, impugned Order-in-Original, founded upon said show-cause notice, is bad in law. Although petitioner has a

statutory remedy of filing appeal under Section 107 of the Central Goods and Service Tax Act, 2017 ('the Act'), the said appellate authority will not be able to decide the question of jurisdiction of the authority who has issued the notice and passed the Order-in-Original.

3. Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, opposed the same and submits that the impugned show-cause notice and the Order-in-Original were issued by the competent authorities and the petitioner has a remedy of appeal.

4. The point raised by the petitioner regarding jurisdiction is not a pure question of law. Instead, it is a mixed question of fact and law. Thus, the appellate authority is best suited to decide the said question. We are unable to hold that under Section 107 of the Act, appellate authority is not competent to decide the question of jurisdiction of officers, who have issued the impugned notice and Order-in-Original. In view of statutory remedy available to the petitioner, the petitioner is relegated to avail the said remedy. In the interest of justice, it is observed that if petitioner raises the issue of jurisdiction in its appeal memo, it will be lawful for the appellate authority to decide the said issue in accordance with law.

5. With aforesaid and without expressing any opinion on merits, the writ petition is disposed of. The time consumed before this Court shall not be counted for the purpose of reckoning limitation by the appellate authority. No costs.

Interlocutory applications, if any pending, shall also stand closed.

SD/- K. VENKAI AH
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. One CC to Sri K Govinda Rao Advocate [OPUC]
2. One CC to Sri Dominic Fernandes (senior standing counsel for CBIC) Advocate [OPUC]
3. One CC to Sri Gadi Praveen Kumar, Deputy Solicitor General (OPUC)
4. Two CD Copies

MBC
GJP



HIGH COURT

DATED: 05/09/2024



ORDER

WP.No.24412 of 2024

DISPOSING OF WRIT PETITION

WITHOUT COSTS

⑥
04/12/24
lvs