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

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

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT JUSTICE RENUKA YARA

WRIT PETITION NO: 19327 OF 2024

Between:

M/s.Balaji Wood Works Saw Mill, O/o. 2029, Musthabad Road, Prashanth Nagar, Siddipet, Telangana- 502 103.

Rep. by its Proprietor Sri.Balakrishan Putta, S/o. Sri.Putta Shivaiah, Aged 44 years, Rio. Plot No.22, 1st Floor, Sai Chandra Colony, Dammaiguda, Keesara, Medchal-Malkajgiri, Telangana-500083.

...PETITIONER

AND

1. The Assistant Commissioner of Central Tax, Siddipet Range, Medchal Division, H.No.8-2-77/3, 5th Floor, Aditya Towers, Sri Sai Enclave, Old Bowenpally, Secunderabad-500011.
2. The Union of India, Rep. by its Secretary, Ministry of Finance, North Block, New Delhi - 110 001.
3. The Central Board of Indirect Taxes and Customs, Rep. by its Chairman, Ministry of Finance, Department of Revenue, North Block, Central Secretariat, New Delhi - 100 001.

...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. (1) the action of the 1st Respondent in passing the Order-in-Original, dated 12.12.2023 and Summary of the Order in Form GST DRC-07, dated 21.12.2023 under Section 73 of the Integrated Goods and Service Tax Act 2017, Central Goods and Service Tax Act 2017, levying IGST of Rs.20,73,870/-, Interest of Rs.15,35,118/- under Section 50(3) of the IGST / CGST / SGST Act and Penalty of Rs.2,07,387/- under Section 122(2)(a) of the IGST / CGST /

SGST Act, 2017 for the tax period 2017-18, as arbitrary, contrary to the provisions of the IGST / CGST / SGST Act 2017, patently barred by limitation, without jurisdiction as contemplated under Section 73(10) of the IGST / CGST / SGST Act 2017, in consonance with Notification No.09/2023-Central Tax, dated 31.03.2023 as illegal, ultra vires to Section 168A of the CGST / SGST Act 2017, and in violation of Principles of Natural Justice and Rule of Law and contrary to Article 14, 19(1)(g) and 265 of the Constitution of India, (2) to declare Notification No.09/2023-Central Tax, dated 31.03.2023 issued by the Union of India, as ultra vires to Section 168A of the IGST / CGST / SGST Act, 2017 and consequently set aside the Order-in-Original, dated 12.12.2023 and Summary of the Order in Form GST DRC-07, dated. 21.12.2023 of the Respondent, as null and void, (3) to declare that the Order-in-Original, dated 12.12.2023 and Summary of the Order in Form GST DRC-07, dated 21.12.2023 passed by the 1st Respondent and Show Cause Notice, dated 25.8.2023 are not in consonance with the provisions of the Act and Rules made therein specifically with regard to the Notification No 39 of 2021 of Central Tax dated 21.12.2021, and accordingly quash the same as null and void.

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-in-Original, dated 12.12.2023 and Summary of the Order in Form GST DRC-07, dated 21.12.2023 of the 1st Respondent passed for the tax period 2017-18, under the IGST / CGST / SGST Act, 2017, pending disposal of the above Writ Petition.

Counsel for the Petitioner: SRI KOHIR BHASKAR REDDY

Counsel for the Respondent Nos.1 and 3: SRI DOMINIC FERNANDES (senior standing counsel for CBIC)

Counsel for the Respondent No.2: SRI G. MUKHERJEE, REPRESENTING SRI GADI PRAVEEN KUMAR, DEPUTY SOLICITOR GENERAL OF INDIA

The Court made the following: ORDER

THE HON'BLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HON'BLE SMT. JUSTICE RENUKA YARA

WRIT PETITION No.19327 of 2024

ORDER *(Per the Hon'ble the Acting Chief Justice Sujoy Paul)*:

Sri K. Bhaskar Reddy, learned counsel for the petitioner; Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, for respondent Nos.1 & 3 and Sri B. Mukherjee, learned counsel representing Sri Gadi Praveen Kumar, learned Deputy Solicitor General of India, for respondent No.2.

2. Learned counsel for the petitioner, at the outset, submits that this matter is covered by recent order passed by this Court in W.P.No.2123 of 2024 and batch and it may be disposed of in same terms.

3. The other side has no objection.

4. Accordingly, this Writ Petition is **disposed of** by reserving liberty to the petitioner to avail the remedy of statutory appeal. If the appeal is preferred by the petitioner within 45 days from today before the appellate authority, the said authority shall consider and decide the appeal on merits and it shall not be thrown overboard on the ground of limitation. It is made clear that this Court has not expressed any opinion on merits of the case. There shall be no order as to costs.

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

SD/-N. SRIHARI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Assistant Commissioner of Central Tax, Siddipet Range, Medchal Division, H.No.8-2-77/3, 5th Floor, Aditya Towers, Sri Sai Enclave, Old Bowenpally, Secunderabad-500011.
2. The Secretary, The Union of India, Ministry of Finance, North Block, New Delhi - 110 001.
3. The Chairman, The Central Board of Indirect Taxes and Customs, Ministry of Finance, Department of Revenue, North Block, Central Secretariat, New Delhi - 100 001.
4. One CC to Sri Kohir Bhaskar Reddy, Advocate [OPUC]
5. One CC to Sri Dominic Fernandes (senior standing counsel for CBIC) [OPUC]
6. One CC to Sri Gadi Praveen Kumar, Deputy Solicitor General of India[OPUC]
7. Two CD Copies

T J
GJP

HIGH COURT

DATED:14/02/2025

ORDER

WP.No.19327 of 2024



DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

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18/3/2025