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

WEDNESDAY, THE SECOND DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE

PRESENT

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

WRIT PETITION NO: 6773 OF 2025

Between:

M/s. Venkateswara Granites, Rep. by its Managing Partner Ravipati Venkateswara Rao, 23-6-231, Hunter Road, Hanamkonda, Warangal - 506 002.

...PETITIONER

AND

1. The Assistant Commissioner of Central Tax and GST, Circle-IV, Hyderabad Audit-II Commissionerate, 2-9-268/7, Vikasnagar, Hanamkonda-506001, Telangana.
2. The Deputy Commissioner of Central Taxe, Warangal GST Division, 2-7-391, Sri Sai Nivas, Excise Colony, Hanamkonda-506001, Telangana.
3. The Commissioner (In-situ) of Central Tax and GST (Appeals-II), O/o the Commissioner of Customs and Central Tax, Appeals-II, Hyderabad Commissionerate, 7th Floor, GST Bhavan, L.B. Stadium Road, Basheerbagh, Hyderabad - 500 004, Telangana.

...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 Writ of Mandamus or any other appropriate Writ, Order or Direction declaring the order-in-appeal No. HYD-GST-SC-AP2-733-2024-25-GST, dated 31.01.2025, passed by the 3rd respondent rejecting the appeal filed by the Petitioner and the order in original dated 31.01.2022 passed by the 2nd Respondent for the period July, 2017 to March, 2018, as illegal, arbitrary, highhanded and in violation of principles of natural justice and consequently set the same and pass such other order or orders may deem fit and proper in the circumstances of the case. In the alternative, The Hon'ble court may be pleased to direct the 3rd respondent to dispose of the appeal filed by the petitioner on 17.01.2025, against the order in original dated 31.01.2022, by condoning the delay

after setting aside the order in appeal dated 31.01.2025, passed by the 3rd Respondent.

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 all further proceedings, including any recovery, pursuant to order-in-original passed u/s 74 of the Goods and Services Tax Act, 2017, dated 31.01.2022, passed by the 2nd Respondent under the provisions of the Telangana Goods and Services Tax Act, 2017 and Central Goods and Services Tax Act, 2017, for the tax period July, 2017 to March, 2018, pending disposal of the above Writ Petition.

Counsel for the Petitioner: SRI SINGAM SRINIVASA RAO
Counsel for the Respondents: SRI DOMINIC FERNANDES, senior standing counsel for CBIC

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.6773 of 2025

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

Sri Singam Srinivasa Rao, learned counsel for the petitioner and Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, for the respondents.

2. This is the second visit of the petitioner to this Court. Earlier, the petitioner filed W.P.No.9021 of 2022, which was withdrawn by it on 24.12.2024.

3. Learned counsel for the petitioner submits that although in the aforesaid order dated 24.12.2024 it was mentioned that the writ petition was dismissed as withdrawn unconditionally, it is required to be seen that the petitioner filed a letter dated 21.12.2024 to withdraw the writ petition with a liberty. Thus, in view of the judgment of the Supreme Court in **Himachal Pradesh Financial Corporation v. Anil Garg**[1], this writ petition is, indeed, maintainable, despite the fact that the earlier writ petition was permitted to be withdrawn unconditionally.

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[1] (2017) 14 SCC 634

4. Learned counsel for the petitioner submits that the impugned order-in-original dated 31.01.2022 was promptly challenged by the petitioner in the previous round of litigation i.e., W.P.No.9021 of 2022, which remained pending with an interim protection till 24.12.2024 when it was permitted to be withdrawn. The petitioner diligently assailed the order-in-original before this Court and after withdrawal, filed an appeal which came to be dismissed solely on the ground of delay. In the peculiar facts of this case and by considering the fact that the time consumed before this Court is condonable/ignorable, the appellate authority may be directed to hear the matter on merits.

5. Learned Senior Standing Counsel for the respondents raised formal objection.

6. We find substance in the argument of the learned counsel for the petitioner.

7. In the peculiar facts of this case, admittedly, the petitioner challenged the order-in-original within the period of statutory limitation in W.P.No.9021 of 2022, which remained pending till its withdrawal.

8. Thus, in the fitness of things, we deem it proper to direct the appellate authority to ignore that period when the petitioner's earlier writ petition remained pending before this Court.

9. Resultantly, the impugned appellate order dated 31.01.2025 is set aside. The appellate authority is directed to decide the appeal of the petitioner in accordance with law. However, the appeal shall not be dismissed on the ground of delay. The petitioner undertakes to appear before the appellate authority on 16.04.2025 at 11:30 am and no further notice for this purpose shall be issued to the petitioner. The appellate authority shall proceed in accordance with law from that stage.

10. The writ petition is accordingly disposed of without expressing any view on merits. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

SD/-V.KAVITHA
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Assistant Commissioner of Central Tax and GST, Circle-IV, Hyderabad Audit-II Commissionerate, 2-9-268/7, Vikasnagar, Hanamkonda-506001, Telangana.
2. The Deputy Commissioner of Central Taxe, Warangal GST Division, 2-7-391, Sri Sai Nivas, Excise Colony, Hanamkonda-506001, Telangana.
3. The Commissioner (In-situ) of Central Tax and GST (Appeals-II), O/o the Commissioner of Customs and Central Tax, Appeals-II, Hyderabad Commissionerate, 7th Floor, GST Bhavan, L.B. Stadium Road, Basheerbagh, Hyderabad - 500 004, Telangana.
4. One CC to SRI SINGAM SRINIVASA RAO, Advocate [OPUC]
5. One CC to SRI DOMINIC FERNANDES, senior standing counsel for CBIC [OPUC]
6. Two CD Copies

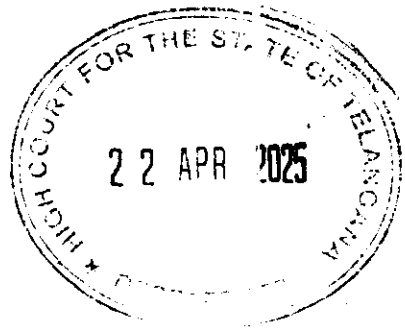
PSK.
LS

HIGH COURT

DATED:02/04/2025

ORDER

WP.No.6773 of 2025



DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

PA
11/4/25

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