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

WEDNESDAY, THE SIXTEENTH 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 NOs: 26395, 26403, 26406 and 26473 OF 2023

WRIT PETITION NO: 26395 OF 2023

Between:

M/s.Sunshakti Solar Power Projects Private Limited, H.No.1-21-227-5, 1st Floor, Plot No.54, Road No.9, Sri Venkateshwara Nagar Colony, West Venkatapuram, Secunderabad - 500 010. State of Telangana Rep. by its Authorised Signatory Mr.Venkata Raja Bapatla

...PETITIONER

AND

1. The State of Telangana, Rep. by its principal Secretary Revenue (CT)Department Telangana Secretariat Hyderabad
2. The Additional Commissioner, Revenue (CT) Department, Commissioner Telangana, Hyderabad.
3. The Appellate Joint Commissioner, (ST), Hyderabad Rural Division, Hyderaba.
4. The Assistant Commissioner of State Tax, Malkajgiri Circle-II, Hyderabad.

...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 or Order or Direction declaring the action of the respondents in excersing the revisional jurisdiction by serving revision Show cause notice through proceedings CCTs Ref No LIII(2)/110-4/2021 Dated 31-8-2023 as arbitrary, contrary to law, unconstitutional coupled with ulterior motive.

IA NO: 1 OF 2023

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 the proceedings CCTs Ref No LIII(2)/110-4/2021 Dated 31-8-2023 labelled as revision show cause notice forthwith pending disposal of the Writ Petition.

Counsel for the Petitioner: SRI M.GOVIND REDDY, REP. FOR SRI M.P.K.ADITYA

Counsel for the Respondents: SRI SWAROOP OORILLA, SPL. GP FOR STATE TAX

WRIT PETITION NO: 26403 OF 2023

Between:

M/s.Suraj Kiran Renewable Resources Private Limited, H.No.1-21-227-5, 1st Floor, Plot No.54, Road No.9, Sri Venkateshwara Nagar Colony, West Venkatapuram, Secunderabad - 500 010. State of Telangana Rep. by its Authorised Signatory Mr.Venkata Raja Bapatla

...PETITIONER

AND

1. The State of Telangana, Rep. by its principal Secretary Revenue (CT)Department Telangana Secretariat Hyderabad.
2. The Additional Commissioner, Revenue (CT) Department, Commissioner Telangana, Hyderabad.
3. The Appellate Joint Commissioner (ST), Hyderabad Rural Division, Hyderabad.
4. The Assistant Commissioner of State Tax, Malkajgiri Circle-II, Hyderabad.

...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 or Order or Direction declaring the action of the respondents in excersing the revisional jurisdiction by serving revision Show cause notice through proceedings CCTs Ref No LIII(2)/110-2/2021 Dated 31-8-2023 as arbitrary, contrary to law, unconstitutional coupled with ulterior motive.

IA NO: 1 OF 2023

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 the proceedings CCTs Ref No LIII(2)/110-2/2021 Dated 31-8-2023 labelled as revision show cause notice forthwith pending disposal of the Writ Petition.

Counsel for the Petitioner: SRI M.GOVIND REDDY, REP. FOR SRI M.P.K.ADITYA

Counsel for the Respondents: SRI SWAROOP OORILLA, SPL. GP FOR STATE TAX

WRIT PETITION NO: 26406 OF 2023

Between:

M/s.Suraj Kiran Solar Technologies Private Limited, Plot No.54, Road No.9, Sri Venkateshwara Nagar Colony, West Venkatapuram, Secunderabad - 500 010. State of Telangana Rep. by its Authorised Signatory Mr.Venkata Raja Bapatla

...PETITIONER

AND

1. The State of Telangana, Rep. by its principal Secretary Revenue (CT) Department Telangana Secretariat Hyderabad.
2. The Additional Commissioner, Revenue (CT) Department, Commissioner Telangana, Hyderabad.
3. The Appellate Joint Commissioner (ST), Hyderabad Rural Division, Hyderaba.
4. The Assistant Commissioner of State Tax, Malkajgiri Circle-III, Hyderabad.

...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 or Order or Direction declaring the action of the respondents in excersing the revisional jurisdiction by serving revision Show cause notice through proceedings CCTs Ref No LIII(2)/110-1/2021 Dated 31-8-2023 as arbitrary, contrary to law, unconstitutional coupled with ulterior motive.

IA NO: 1 OF 2023

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 the proceedings CCTs Ref No LIII(2)/110-1/2021 Dated 31-8-2023 labelled as revision show cause notice forthwith pending disposal of the Writ Petition.

Counsel for the Petitioner: SRI M.GOVIND REDDY, REP. FOR SRI M.P.K.ADITYA

Counsel for the Respondents: SRI SWAROOP OORILLA, SPL. GP FOR STATE TAX

WRIT PETITION NO: 26473 OF 2023

Between:

M/s.Dinakar Technologies Private Limited, H.No.1-21-227-5, 1st Floor, Plot No.54, Road No.9, Sri Venkateshwara Nagar Colony, West Venkatapuram, Secunderabad - 500 010. State of Telangana Rep. by its Authorised Signatory Mr.Venkata Raja Bapatla

...PETITIONER

AND

1. The State Of Telangana, Rep. by its principal Secretary Revenue (CT)Department Telangana Secretariat Hyderabad.
2. The Additional Commissioner, Revenue (CT) Department, Commissioner Telangana, Hyderabad.
3. The Appellate Joint Commissioner (ST), Hyderabad Rural Division, Hyderabad.
4. The Assistant Commissioner of State Tax, Malkajgiri Circle-II, Hyderabad.

...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 or Order or Direction declaring the action of the respondents in excersing the revisional jurisdiction by serving revision Show cause notice through proceedings CCTs Ref No LIII(2)/110-3/2021 Dated 31-8-2023 as arbitrary, contrary to law, unconstitutional coupled with ulterior motive.

IA NO: 1 OF 2023

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 the proceedings CCTs Ref No LIII(2)/110-3/2021 Dated 31-8-2023 labelled as revision show cause notice forthwith pending disposal of the Writ Petition.

Counsel for the Petitioner: SRI M.GOVIND REDDY, REP. FOR SRI M.P.K.ADITYA

Counsel for the Respondents: SRI SWAROOP OORILLA, SPL. GP FOR STATE TAX

The Court made the following: COMMON ORDER

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

WRIT PETITION Nos.26395, 26403, 26406 and 26473 of 2023

COMMON ORDER: *(Per Hon'ble The Acting Chief Justice)*

Regard being had to the similitude of the questions involved, on the joint request, these matters are analogously heard and decided by this common order.

2. In this batch of petitions, the subject matter of challenge is revisional show-cause notices. The facts are taken from W.P.No.26395 of 2023.

3. The petitioner is a dealer engaged in the business of setting up of solar power generating systems to produce electricity through variety of equipments like cables, electrical switch gears etc., and certain items were imported.

4. The petitioner was served with a show-cause notice and in turn, reply was filed. The assessment order dated 22.01.2020 was passed levying tax on import turn over notified goods. Aggrieved, the petitioner preferred an appeal before the Appellate Authority, which was decided on 18.09.2020. The Appellate Authority after

relying on various circulars issued by the Government granted relief to the petitioner by holding thus:

> "For the facts and reasons discussed above, I feel it just and proper to remit the matter back to the Assessing Authority, who shall verity the claims of the appellant with reference to the material already available on record or that would be produced by the appellant and pass orders afresh in accordance with the Government Memo as discussed above, after giving the appellant a reasonable opportunity to present their case. With this direction, the impugned order is set-aside on the disputed turnover of Rs.179,57,52,408-00 so far it relates to the goods imported from the outside the country and the appeal thereon remanded."
>
> (Emphasis Supplied)

5. It is the case of the petitioner that the impugned revisional show-cause notice dated 31.08.2023 came as a blot from blue to the petitioner, whereby based on the judgment of the Supreme Court, the Revisional Authority intends to revise the order of the Appellate Authority. Against the similar revisional orders these batch of petitions are filed.

Contention of the petitioners:

6. Sri M. Govind Reddy, learned counsel for the petitioners submits that order of assessing officer was based on the judgment of the Supreme Court. Against which, the petitioners preferred appeals. In the said appeals, not only the judgment of Supreme Court was considered, but the learned Appellate Authority also

considered various binding executive instructions/circulars issued by the State Government. After elaborate discussion and analysis, the Appellate Authority rightly came to hold that imported goods cannot be subjected to tax. It is submitted that under Section 32 of **the Telangana Value Added Tax Act, 2005** ('VAT Act'), the Revisional Authority is competent to revise, modify or set aside the appellate order. The said exercise should not be done in a cryptic manner. Since the Revisional Authority has relied on the very same Supreme Court judgment which was considered by the Appellate Authority, the petitioners cannot put forth any defence. The petitioners cannot rely on the binding circulars of the State Government on which reliance was placed by the Appellate Authority. In other words, since proposed notices are founded upon the judgment of Supreme Court, the petitioners are defenceless and no useful purpose would be served in compelling the petitioners to file reply to the said proposed revisional show-cause notice.

7. Learned counsel for the petitioners by placing reliance on the judgment of the Supreme Court in **Malabar Industrial Co. Ltd. v. Commissioner of Income Tax, Kerala State**[1] submits

[1] 2000 (2) SCC 718

that show-cause notice does not spell out with accuracy and precision as to how the order of the Appellate Authority is prejudicial to the interest of the Revenue. For this reason also, interference is warranted. Lastly, he placed reliance on the order passed by Division Bench of this Court in **M/s. Nice Enterprisers v. The Deputy Commissioner**[2] wherein interference was made against the show-cause notice and liberty was reserved to the Revenue to issue a fresh show-cause notice. For these cumulative reasons, it is urged that this Court may interfere in the show-cause notice itself.

Contentions of the respondents:

8. *Per contra*, Sri Swaroop Orilla, learned Special Government Pleader for State Tax, submits that the scope of interference against show-cause notice is very limited. Heavy reliance is placed on the judgment of the Supreme Court in **Special Director** v. **Mohd. Ghulam Ghouse**[3]. For the same proposition, he placed reliance on the order of Division Bench of this Court in **GMR Pochanpalli Expressways Limited** v. **Additional Director,**

[2] W.P.No.20080 of 2024, dated 30.07.2024.
[3] (2004) 3 Supreme Court Cases 440

Directorate General of GST Intelligence, Hyderabad Zonal Unit[4].

9. No other point is pressed.

10. We have heard the parties at length and perused the record.

Findings:

11. Before dealing with rival contentions, it is apposite to consider the statutory provision i.e., Section 32(1) of VAT Act reads thus:

> "**Section 32: Revision by Commissioner and other prescribed authorities:**
>
> (1) The Commissioner may suo motu call for and examine the record of any order passed or proceeding recorded by any authority, officer or person subordinate to him, under the provisions of the Act including sub-section (2) and if such order or proceeding recorded is prejudicial to the interests of revenue, may make such enquiry, or cause such enquiry to be made and subject to the provisions of the Act, may initiate proceedings to revise, modify or set aside such order or proceeding and may pass such order in reference thereto as he thinks fit."
>
> (Emphasis Supplied)

12. A plain reading of this provision makes it clear that the Revisional Authority is competent to initiate proceedings to revise, modify or set aside the order. Pertinently, the learned counsel for

[4] W.P.No.16266 of 2023, dated 08.10.2024

the petitioners has not assailed the show-cause notices on the ground of competence. The provision in no uncertain terms makes it clear that the Revisional Authority is indeed competent to take a different view from the view taken by the Appellate Authority.

13. We find substance in the argument of learned Special Government Pleader for State Tax that scope of interference at the stage of show-cause notice is very limited. The Apex Court has drawn curtains on this issue in the case of **Mohd.Ghulam Ghouse** (supra) and opined thus:

> "5. This Court in a large number of cases has deprecated the practice of the High Courts entertaining writ petitions questioning legality of the show-cause notices stalling enquiries as proposed and retarding investigative process to find actual facts with the participation and in the presence of the parties. Unless, the High Court is satisfied that the show-cause notice was totally non est in the eye of law for absolute want of jurisdiction of the authority to even investigate into facts, writ petitions should not be entertained for the mere asking and as a matter of routine, and the writ petitioner should invariably be directed to respond to the show-cause notice and take all stands highlighted in the writ petition. **Whether the show-cause notice was founded on any legal premises is a jurisdictional issue which can even be urged by the recipient of the notice and such issues also can be adjudicated by the authority issuing the very notice initially, before the aggrieved could approach the Court.** Further, when the Court passes an interim order it should be careful to see that the statutory functionaries specially and specifically constituted for the purpose are not denuded of powers and authority to initially decide the matter and ensure that ultimate relief which may or may not be finally

granted in the writ petition is not accorded to the writ petitioner even at the threshold by the interim protection not granted."

(Emphasis Supplied)

14. The highlighted portion of this paragraph makes it clear that even if legal premise of jurisdictional issue is lacking as per the petitioners in the show-cause notices, they may file reply and raise that objection. We are unable to persuade ourselves with the line of argument of learned counsel for the petitioners that since learned Revisional Authority has based its notice on the Supreme Court judgment, they cannot have any defence while filing the reply. If in the opinion of the petitioners, the said Supreme Court judgment is either not applicable or distinguishable, the petitioners can say so in their reply. The show-cause notice is tentative in nature, which can be seen from the last paragraph of the notice itself. Nothing prevents the petitioners to rely on the circulars which were issued by the State Government, if such circulars are in support of the petitioners' claim. In that event, it will be the duty of the Revisional Authority to consider all the objections taken by the petitioners in their reply.

15. The necessary ingredients on which interference can be made at the stage of show-cause notice are absent in the present

cases. At the cost of repetition, the question of competence/jurisdiction is not involved in the present matters. Whether the appellate order discloses necessary ingredients to show that it is prejudicial to the interest of Revenue or not can also be raised while filing objection/response to the show-cause notice. We say so, in view of the principles laid down by the Supreme Court in **Mohd.Ghulam Ghouse** (supra).

16. So far the judgment of this Court in **M/s. Nice Enterprisers** (supra) is concerned, suffice it to say that in the show-cause notice in that case, there was no factual backdrop and no factual details and the entire show-cause notice was issued by reproducing Section 29(2) (e) of the Goods and Service Tax Act, 2017. In this peculiar backdrop, where necessary ingredients for a valid show-cause notice were missing, this Court interfered with the show-cause notice, set it aside and gave liberty to the Revenue to issue a proper show-cause notice. The said judgment cannot be stretched and pressed into service in the present cases, where revisional notice is not sketchy or cryptic.

17. As analyzed above, the impugned show-cause notices cannot be interfered with. Resultantly, interference is declined. The

petitioners may file their reply to the show-cause notices by taking all possible grounds within three weeks from today. The Competent Authority shall consider the reply and decide the matters, in accordance with law, expeditiously.

18. With the aforesaid and without expressing any opinion on the merits, the Writ Petitions are **disposed of**. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

SD/-T.TIRUMALA DEVI
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Revenue (CT) Department, Telangana Secretariat Hyderabad, State of Telangana.
2. The Additional Commissioner, Revenue (CT) Department, Commissioner Telangana, Hyderabad.
3. The Appellate Joint Commissioner, (ST), Hyderabad Rural Division, Hyderabad.
4. The Assistant Commissioner of State Tax, Malkajgiri Circle-II, Hyderabad.
5. The Assistant Commissioner of State Tax, Malkajgiri Circle-III, Hyderabad.
6. One CC to SRI M.P.K.ADITYA, Advocate [OPUC]
7. Two CCs to SPL GP FOR STATE TAX, High Court for the State of Telangana at Hyderabad [OUT]
8. Two CD Copies

BSR
LS

HIGH COURT

DATED: 16/04/2025



COMMON ORDER

WP.Nos.26395, 26403, 26406 and 26473 of 2023

DISPOSING OF ALL THE WRIT PETITIONS, WITHOUT COSTS

(11) Copies
Sm
22/4/25