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

MONDAY, THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

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

WRIT PETITION Nos.135 AND 168 OF 2025

WRIT PETITION NO: 135 OF 2025

Between:

M/s Om Dhanalaxmi Traders, Rep. by Sri Mukesh Dhoot S/o. Ram Vilas Dhoot, Aged Major, Occ: Business, R/o. 19-1-915/17/18, Devi Bagh, Murali Nagar, Bahadurpura, Hyderabad-64

...PETITIONER

AND

1. Union of India, Ministry of Finance, Represented by its Secretary, North Block New Delhi 110001
2. Office of Commissioner of Customs, and Central Tax appeals-1 Hyderabad Commissionerate Rep. by Additional Commissioner (Appeals-I) 7th Floor, GST Bhavan, L.B Stadium Road, Basheerbagh, Hyderabad, 500004
3. Deputy Commissioner of Central Tax, Begum Bazar GST Division, Hyderabad, GST Commissionerate, 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 writ of certiorari to call for the records of order in Appeal no. HYD-GST-HYC-APP1-118-24-25 ADC dated 30.08.2024 on the file of the Commissioner of Customs and Central Tax appeals-1 Hyderabad Commissionerate (i.e., Additional Commissioner of Appeals-I) which confirmed the orders of primary authority Order in Original No. 9/2022-23 Adjn (DC)-GST dated 28.02.2023 and consequently set-aside the same as illegal, contrary to law and judicial precedents.

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

WRIT PETITION Nos.135 and 168 of 2025

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

Sri J.C. Francis, learned counsel representing Sri Ravish Kedia, learned counsel for the petitioners in both cases; Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, for respondent Nos.2 and 3 in both the cases and Sri B. Mukherjee, learned counsel representing Sri Gadi Praveen Kumar, learned Deputy Solicitor General of India, for respondent No.1 in both the cases.

2. 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.

3. The challenge is mounted in these petitions to the Appellate Orders in appeal Nos.HYD-GST-HYC-APP1-118-24-25 and HYD-GST-HYC-APP1-117-24-25, both dated 30.08.2024 passed by respondent No.2 in both the cases. The facts are taken from W.P.No.135 of 2025.

4. The principal contention of the learned counsel for the petitioners is that the petitioners filed an elaborate appeal running

into almost 20 pages. By taking this Court to the appeal memos (Annexure P-7), it is submitted that apart from giving factual details of tax components etc., statement of facts are given in paragraph Nos.1 to 6. Thereafter, 'grounds' were introduced subject-wise such as: **1.** *"incompleteness of investigation"*; **2.** *"failure of 'due process' of disclosure of investigative material"*; **3.** *"adjudication sans disclosure of investigative material is incomplete, presumptive and illegal"*; **4.** *"Issue (A) Demand for Penalty on 'Carousel Trading'"- 'Dropping of demand for reversal of input tax credit entails acceptance of bona fide inward and outward supplies', 'Adjudicating Authority 'acting under dictation' is illegal, violative of principles of natural justice and results in non-application of mind in adjudication proceedings', 'Appeal limited to validity of Impugned Order and limitations in Impugned Order incurable in appellate proceedings', 'Demand for penalty without showing the ingredients is illegal'*; **5.** *"Issue (B) Demand for mismatch of input tax credit"- 'Interest not applicable when output tax discharged stands appropriated'* and **6.** *"Issue (C) Demand for output tax on cash transactions"-'Interest not applicable when output tax discharged stands appropriated', 'Demand for penalty without showing the ingredients is illegal'.*

5. Under every 'head', the petitioners raised facts and grounds on the strength of which said 'heads' were highlighted. By taking this court to the 'findings and discussion', learned counsel for the petitioners submits that the findings are nothing, but *ipse-dixit* of the learned Appellate Authority. Learned Appellate Authority is under a statutory obligation and need to assign reasons for each of his conclusions. He passed a cryptic order without dealing with each of the discussions which were duly highlighted in the appeal memos. The orders are cryptic and non-speaking in nature.

6. Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, supported the impugned order and submitted that in case the grounds on which the impugned order is passed are not found to be satisfactory by this Court, the impugned order may be set aside by reserving the liberty to the learned Appellate Authority to pass a fresh order.

7. No other point is pressed.

8. As rightly pointed out, the appeal memos are running in almost 20 pages and 'grounds' are taken under various 'heads'. The 'discussion and findings' reads thus:

"Discussion & Findings:

8. I have carefully examined the impugned orders, the grounds of appeals, and the submissions made by the appellants. The core issue to be decided is whether M/s Om Dhana Laxmi Traders have indulged in availing and passing on irregular ITC as alleged.

9. I find that a detailed investigation have been conducted covering all the parties involved in the disputed transactions. Statements of the main appellants i.e., Proprietors and Accountants clearly establish that neither the appellants nor their suppliers had executed any physical supply of goods and ITC availed and passed on by them was irregular.

10. I observe that the appellants have failed to provide any credible evidences to rebut the specific findings recorded in the impugned orders regarding the non-genuine nature of the transactions. The submissions made are only general denials without any supporting documents. No infirmity could be pointed out in the investigations or adjudications.

11. The adjudicating authority has examined the role and culpability of each person based on the material evidence on record. The impugned orders have elaborately dealt with the submissions of the noticee. I find that the allegations are based on cogent evidence gathered during investigations and not on mere presumptions. The impugned order has been passed taking into consideration all the relevant facts and is a well-reasoned one. The findings are neither going beyond the SCNs nor suffering from any infirmities.

12. In view of the above, I hold that M/s Om Dhana Laxmi Traders have availed and passed on ITC irregularly without the underlying supplies. Thus, they are liable for penal actions under relevant provisions.

In view of the above discussion and findings, I pass the following order:

ORDER

The appeals filed by M/s Om Dhana Laxmi Traders is disallowed and the impugned order is upheld."

(Emphasis supplied)

9. If the aforesaid part of findings is read in juxtaposition to the 'grounds' taken in the appeal memos, it will be clear like cloudless sky that various 'grounds' taken by the petitioners elaborately have not been touched upon at all. The order in our opinion is too sketchy, too cryptic and too evasive. Learned Appellate Authority was under a statutory obligation to assign reasons in support of his conclusions. Even otherwise, it is minimum requirement of the principles of natural justice to deal with the 'grounds' taken in the appeal memos, otherwise the appeal proceedings will reduce into hollow public relation exercise.

10. The Apex Court emphasized the need of assigning reasons in administrative, quasi-judicial and judicial proceedings in the case of **Kranti Associates (P) Ltd. v. Masood Ahmed Khan**[1]. The relevant portion reads as under:

> "12. The necessity of giving reason by a body or authority in support of its decision came up for consideration before this Court in several cases. Initially this Court recognised a sort of demarcation between administrative orders and quasi-judicial orders but with the passage of time the distinction between the

[1] (2010) 9 SCC 496

two got blurred and thinned out and virtually reached a vanishing point in the judgment of this Court in *A.K. Kraipak* v. *Union of India* [(1969) 2 SCC 262].

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14. The expression "speaking order" was first coined by Lord Chancellor Earl Cairns in a rather strange context. The Lord Chancellor, while explaining the ambit of the writ of certiorari, referred to orders with errors on the face of the record and pointed out that an order with errors on its face, is a speaking order.

15. This Court always opined that the face of an order passed by a quasi-judicial authority or even an administrative authority affecting the rights of parties, must speak. It must not be like the "inscrutable face of a sphinx".

47. Summarising the above discussion, this Court holds:

(*a*) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(*b*) A quasi-judicial authority must record reasons in support of its conclusions.

(*c*) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(*d*) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(*e*) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(*f*) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(*g*) Reasons facilitate the process of judicial review by superior courts.

(*h*) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(*i*) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(*j*) Insistence on reason is a requirement for both judicial accountability and transparency.

(*k*) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(*l*) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.

(*m*) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in *Defence of Judicial Candor* [(1987) 100 Harvard Law Review 731-37] .)

(*n*) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See *Ruiz Torija* v. *Spain* [(1994) 19 EHRR 553] EHRR, at 562 para 29 and *Anya* v. *University of Oxford* [2001 EWCA Civ 405 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process."

11. If the impugned order is tested on the anvil of principles laid down in **Kranti Associates** (supra), it will be clear like noon day that the impugned order cannot sustain judicial scrutiny. The same is cryptic and does not assign any reason in relation to various grounds. It is crystal clear that the order of the learned Appellate Authority is an example of non-application of mind. Learned Appellate Authority has not dealt with each of the points raised by the petitioners in the appeal memos. He passed an order stating that the petitioners have failed to provide any credible evidence to rebut the specific findings. He did not deal with the defence of the petitioners on the aspect of right to cross-examine the witness. Thereafter, at paragraph No.11, the learned Appellate Authority opined that in view of the findings of the adjudicating authority and material on record, since the impugned order has elaborately dealt with the submissions of the noticee, interference was declined. We wonder, when the Order-in-Original was challenged under various 'grounds', how reliance can be placed on the Order-in-Original to reject the contentions of the petitioners. The proper course was to examine the findings of the Order-in-Original on the anvil of grounds taken in the appeal

memos and then reach to an independent decision/conclusion. Since in the order of the learned Appellate Authority he miserably failed to apply mind and assign reasons, we are unable to countenance the orders. Hence, both the impugned orders passed in the appeals are hereby **set aside**. The petitioners are directed to appear before the learned Appellate Authority on 02.04.2025 at 11:30 AM. The learned Appellate Authority shall provide them a fresh opportunity of hearing and pass fresh orders in accordance with law.

12. With the aforesaid and without expressing any opinion on the merits, these Writ Petitions are **disposed of**. There shall be no order as to costs. Miscellaneous applications, if any pending, shall stand closed.

SD/-N. SRIHARI
DEPUTY REGISTRAR

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SECTION OFFICER

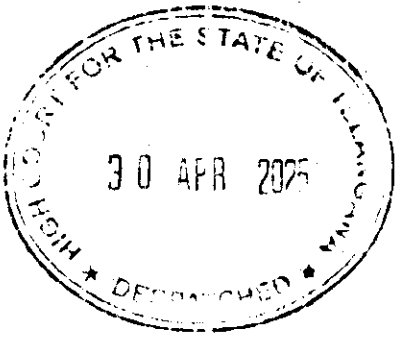
To,

1. The Secretary, Union of India, Ministry of Finance, North Block New Delhi 110001
2. The Office of Commissioner of Customs, and Central Tax appeals-1 Hyderabad Commissionerate Rep by Additional Commissioner (Appeals-I) 7th Floor, GST Bhavan, L.B Stadium Road, Basheerbagh, Hyderabad, 500004
3. The Deputy Commissioner of Central Tax, Begum Bazar GST Division, Hyderabad, GST Commissionerate, Hyderabad
4. One CC to SRI RAVISH KEDIA, Advocate [OPUC]
5. One CC to SRI GADI PRAVEEN KUMAR, Deputy Solicitor General of India [OPUC]
6. One CC to SRI PULIMAMIDI SHASHIDHAR REDDY, S.C. for Central Government [OPUC]
7. One CC to SRI DOMINIC FERNANDES, Senior S.C. for CBIC [OPUC]
8. Two CD Copies

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HIGH COURT

DATED:24/03/2025



COMMON ORDER

W.P. Nos.135 AND 168 OF 2025

DISPOSING OF THE WRIT PETITIONS WITHOUT COSTS

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S.b
10/4/25