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

TUESDAY, THE TWENTY 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: 21072 OF 2024

Between:

WATER TECH ENGINEERS, Rep. by its Authorised Person Sri Kotturi Srinivas S/o Kotturi Shankar Manager -Admin, 1st Floor, Saluja Arcade,180,Tarbund Secunderabad, 500009 Telangana

...PETITIONER

AND

1. Assisstant Commissioner of CGST, Malkajigiri Division. H.No.8-2-77/3 & 4, Aditya Towers, Sri Sai Enclave, Old Bowenpaaly Secunderabad-500011
2. The Commissioner of Central Goods and Service Tax, Medchal Commissionerate CF36 + 454, Redhills, Hyderabad, Telangana 500004
3. The Chief Commissioner of Goods, and Service Tax And Customs, Hyderabad Zone, Central Tax, Hyderabad Zone, GST Bhavan, L.B Stadium Road Basheerbagh, Hyderabad-50004
4. The Union of India, Rep. by its Secretary(Finance) CBIC Ministry of Finance, North Block New Delhi -110001
5. The State of Telangana, Rep by Principal Secretary to Revenue, Commercial Tax Department, Secretariat Buildings, 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 any Writ or Order or Direction more particularly one in the nature of Writ of Mandamus, declaring the action of the 1st Respondent in pursuance of the Impugned Order in Original No.24/2024 GST dated 29-03-2024 with Demand of Tax Rs. 51,04,778 u/s 74(9)of CGST Act2017 R/w Section 122(2)(b) of CGST Act2017 (ii) interest u/s 50(3) of CGST Act R/w Section 20 of the IGST Act (iii) equal amount of tax as Penalty of**

Rs.51,04,778 u/s 122(2)(b) of CGST Act 2017, along with the unsigned GST DRC-07 dated 26-04-2024 uploaded in contravention of Section 3 of Information Technology Act 2000 (21 of 2000) as mandated by rule 26(3) of CGST Rules, read with Rule 142 (5) of CGST Rules, and 1st Respondent failure to issue the same simultaneously with OIO, without signing the documents digitally, as void ab initio, and the same is without Jurisdiction or Authority, contrary to the principles of natural justice, contrary to the Provisions of CGST Act and the Rules made there under, illegal, arbitrary, capricious, contrary the Apex Court Judgements and contrary to Articles 14,19, read with 300A of the Constitution of India., and to pass such other order or orders as are deemed fit and proper in the facts and circumstances of the case in the interest of justice.

The Prayer is Amended as per Court Order dated13-08-2024 vide IA.No.2 of 2024.

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 grant stay of all further proceedings in pursuance the impugned Order Demand of Impugned Order in Original with Demand of Tax Rs.51,04,778 u/s 74(9)of CGST Act 2017 R/w Section 122(2)(b)of CGST Act2017 (ii) interest u/s 50(3) of CGST Act R/w Section 20 of the IGST Act (iii) equal amount of tax as Penalty of Rs.51,04,778 u/s 122(2)(b) of CGST Act 2017, pending disposal of this Writ Petition.

Counsel for the Petitioner: SRI T.SRINIVASA MURTHY

Counsel for the Respondent No.1 to 3: SRI DOMINIC FERNANDES, Sr. SC FOR CBIC

Counsel for the Respondent No.4: SRI GADI PRAVEEN KUMAR, DEPUTY SOLICITOR GENERIAL OF INDIA

Counsel for the Respondent No.5: SPL GP FOR STATE TAX

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.21072 of 2024

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

Sri T.Srinivasa Murthy, learned counsel for the petitioner and Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, for respondent Nos.1 to 3.

2. With the consent, finally heard.

3. Learned counsel for the petitioner, at the outset, submits that the points involved in this writ petition are squarely covered by a recent common order passed in W.P.No.21101 of 2024 & batch, dated 28.02.2025. Since DRC-07 is unsigned document and not pregnant with any physical/digital signatures, in view of the said common order, the impugned orders are liable to be set aside.

4. Learned Senior Standing Counsel for CBIC placed reliance on paragraph No.21 of the counter and the brief note annexed with the counter to submit that justifiable reasons are given pursuant to which DRC-07 was unsigned. In the light of these

documents, paragraph No.21 and 'brief note', the matter is distinguishable.

5. The parties have confined their arguments to the extent indicated above and no other point is pressed.

6. In W.P.No.21101 of 2024 & batch, dated 28.02.2025, this Court opined as under:-

> "41. This is trite that if a law prescribes a thing to be done in a particular manner, the same must be done in the same manner and other methods are forbidden (see **Baru Ram v. Prasanni**[1] and **Commissioner of Income Tax, Mumbai v. Anjum M.H. Ghaswala**[2]). Since Rule and prescribed Forms mandate requirement of signature of Proper Officer, its violation makes the notice/order vulnerable. Any contrary view taken by Court about DRC-07 having no signature without considering the above rule and prescribed Form must be held as *per incuriam.*"

7. A plain reading of the aforesaid paragraph makes it clear that this Court opined that when statute prescribes a thing to be done in a particular manner, it has to be done in the same manner and the other methods are forbidden. After considering various judgments of Supreme Court, the other High Courts and the order of the co-ordinate Bench of this Court, this Court came

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[1] AIR 1959 SC 93
[2] (2002) 1 SCC 633

to hold that if DRC-01 and DRC-07 are also not signed for whatever reason, the impugned orders are vitiated. The reasons assigned in paragraph No.21 of the counter and the brief note cannot prevail over the statutory requirement.

8. Resultantly, we are inclined to follow our view in W.P.No.21101 of 2024 & batch, dated 28.02.2025.

9. In view of the aforesaid, the impugned orders are set aside. Liberty as given in W.P.No.21101 of 2024 & batch dated 28.02.2025 to the revenue shall be applicable in the same manner in the present case as well.

10. Accordingly, the writ petition is **disposed of**. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

SD/-L.LAKSHMI BABU
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Assisstant Commissioner of CGST, Malkajigiri Division. H.No.8-2-77/3and4,Aditya Towers, Sri Sai Enclave, Old Bowenpaaly Secunderabad-500011
2. The Commissioner of Central Goods and Service Tax, Medchal Commissionerate CF36 plus 454, Redhills, Hyderabad, Telangana 500004
3. The Chief Commissioner of Goods, and Service Tax And Customs, Hyderabad Zone, Central Tax, Hyderabad Zone, GST Bhavan, L.B Stadium Road Basheerbagh, Hyderabad-50004
4. The Secretary(Finance) CBIC Ministry of Finance, North Block New Delhi, Union of India -110001
5. The Principal Secretary to Revenue, Commercial Tax Department, Secretariat Buildings, Hyderabad, State of Telangana.

6. One CC to SRI T.SRINIVASA MURTHY, Advocate [OPUC]

7. One CC to SRI DOMINIC FERNANDES, Sr. SC FOR CBIC [OPUC]

8. One CC to SRI GADI PRAVEEN KUMAR, DEPUTY SOLICITOR GENERIAL OF INDIA, High Court for the State of Telangana at Hyderabad [OPUC]

9. Two CCs to SPL GP FOR STATE TAX, High Court for the State of Telangana at Hyderabad [OUT]

10. Two CD Copies

BSR

LS

HIGH COURT

DATED:22/04/2025



ORDER

WP.No.21072 of 2024

DISPOSING OF THE WRIT PETITION,

WITHOUT COSTS

(13)

Kpl

31/5/25