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

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

PRESENT

THE HON'BLE THE CHIEF JUSTICE APARESH KUMAR SINGH
AND
THE HON'BLE SRI JUSTICE G.M. MOHIUDDIN

WRIT PETITION NO: 22623 OF 2025

Between:

M/s.Bharadwaj Auto Tech Private Limited, Sy.No.608, Near HP Petrol Pump, Ramagundam Bypass Main Road, Karimnagar, State of Telangana. Rep. By its Managing Director Mr.P.V.R.Kashyap aged 47 years

...PETITIONER

AND

1. The Superintendent, Karimnagar Urban Range, Medchal Commissionerate, Karimnagar.
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 Section 16(2)(c) read with Section 41(2) of the IGST/CGST/SGST Act 2017 is ultra vires to Article 14, 19(1)(g), 21, 265 and 300A of the Constitution of India;

(2) the action of the 1St Respondent in passing the Order, dated 02.02.2025, the Summary of the Order in Form GST DRC-07, dated 02.02.2025 and the Order-in-Original, dated 31.01.2025, levying IGST/CGST/SGST, Interest

and Penalty, for the tax period 2020-21 under the IGST/CGST/SGST Act 2017, barred by limitation, without any signature of the Officer concerned either physical or digital in the Order, dated 02.02.2025, the Summary of the Order, dated 02.02.2025 and the Summary of Show Cause Notice in Form GST DRC-01, dated 26.11.2024 are not valid in the eye of law;

(3) the action of the 1st Respondent in passing the Orders, without even serving Form GST DRC-01A as contemplated under Rule 142(1A) of the IGST/CGST/SGST Rules 2017, is contrary to the provisions of the Acts;

(4) the action of the 1st Respondent in issuing Notices and passing the Orders, without generating DIN in the Notices and Orders as per Circular No.128/47/2019-GST, dated 23.12.2019 and as per W.P.No.320 of 2022, dated 18.07.2022 of the Hon'ble Supreme Court, are not valid and consequently set aside the Order, dated 02.02.2025, the Summary of the Order in Form GST DRC-07, dated 02.02.2025 and the Order-in-Original, dated 31.01.2025 passed by the 1st Respondent as null and void.

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 Suspend the Operation of the Order, dated 02.02.2025, the Summary of the Order in Form GST DRC-07, dated 02.02.2025 and the Order-in-Original, dated 31.01.2025 passed by the 1st Respondent, for the tax period 2020-21 under the IGST/CGST/SGST Act 2017, pending disposal of the above Writ Petition, as otherwise, the Petitioner will be put to severe loss and hardship.

Counsel for the Petitioner: SRI SHAIK JEELANI BASHA

Counsel for the Respondents No.1 & 3: SRI DOMINIC FERNANDES, SENIOR STANDING COUNSEL FOR CBIC

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

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH

AND

THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT PETITION No.22623 of 2025

ORDER:

Learned counsel Sri Shaik Jeelani Basha appears for the petitioner.

Sri Dominic Fernandes, learned Senior Standing Counsel for Central Board of Indirect Taxes and Customs, appears for respondent Nos.1 and 3.

2. The writ petitioner has approached this Court with the following prayer:

> "For the reasons stated in the accompanying affidavit filed in support of the Writ Petition, it is prayed that the Hon'ble Court may be pleased to issue Writ of Mandamus or any other appropriate Writ or Order or Direction declaring:
>
> (1) the Section 16(2)(c) read with Section 41(2) of the IGST/CGST/SGST Act 2017 is ultra vires to Article 14, 19(1)(g), 21, 265 and 300A of the Constitution of India;
>
> (2) the action of the 1st Respondent in passing the Order, dated 02.02.2025, the Summary of the Order in Form GST DRC-07, dated 02.02.2025 and the Order-in-Original, dated 31.01.2025, levying IGST/CGST/SGST Interest and Penalty, for the tax period 2020-21 under the IGST/CGST/SGST Act 2017, barred by limitation, without

any signature of the Officer concerned either physical or digital in the Order, dated 02.02.2025, the Summary of the Order, dated 02.02.2025 and the Summary of Show Cause Notice in Form GST DRC-01, dated 26.11.2024 are not valid in the eye of law;

(3) the action of the 1st Respondent in passing the Orders, without even serving Form GST DRC-01A as contemplated under Rule 142(1A) of the IGST/CGST/SGST Rules 2017, is contrary to the provisions of the Acts;

(4) the action of the 1st Respondent in issuing Notices and passing the Orders, without generating DIN in the Notices and Orders as per Circular No.128/47/2019-GST, dated 23.12.2019 and as per W.P.No.320 of 2022, dated 18.07.2022 of the Hon'ble Supreme Court, are not valid and consequently set aside the Order dated 02.02.2025, the Summary of the Order in Form GST DRC-07, dated 02.02.2025 and the Order-in-Original dated 31.01.2025 passed by the 1st Respondent as null and void and pass such other Order or Orders, as the Hon'ble Court may deem fit and proper, in the circumstances of the case."

3. However, we find that the petitioner has bypassed the alternative remedy of appeal under Section 107(1) of the Central Goods and Services Tax Act, 2017.

4. Learned counsel for respondent Nos.1 and 3 has pointed out several infirmities in the pleadings.

5. Learned counsel for the petitioner, therefore, seeks permission to approach the appellate authority.

6. The learned appellate authority while considering the question of delay in preferring the appeal would keep into account that the petitioner was pursuing its remedy before this Court in this writ petition. If an appeal is filed by the petitioner within a period of one week with statutory pre-deposit, the appellate authority would consider the question of delay sympathetically. Let it be made clear that we have not made any comments on the merits of the case.

7. The writ petition is accordingly disposed of. However, there shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

SD/- N.SRIHARI
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Superintendent, Karimnagar Urban Range, Medchal Commissionerate, Karimnagar.
2. The Secretary, Ministry of Finance, Union of India, North Block, New Delhi - 110 001.
3. The Chairman, Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs, North Block, Central Secretariat, New Delhi - 100 001.
4. One CC to SRI SHAIK JEELANI BASHA, 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

MP

HIGH COURT

DATED:04/08/2025



ORDER

WP.No.22623 of 2025

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

(9)

kpr
7/8/25