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

MONDAY,THE TWENTY EIGHTH DAY OF JULY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE CHIEF JUSTICE APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE P.SAM KOSHY

WRIT PETITION NO: 35758 OF 2024

Between:

ABB Global Industries and Services Private limited, Rep. by its Senior Manager Taxation Mr Pranesh TN Plot Nos.1,2,3 and 4/ Part, 10th Floor, Western Aqua, Hi-Tech City, Survey No.8 of Kondapur Village, Serilingampally, Hyderabad - 500084.

...PETITIONER

AND

1. The Deputy Commissioner of Central Tax Gachibowli GST Division, Ranga Reddy CGST Commissionerate, 4th Floor, Serene Heights, Humayun Nagar, Masab Tank, Hyderabad-500028.
2. Union of India, Ministry of Finance, Rep by its Secretary New Delhi - 110001

...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 o issue an appropriate writ, order or direction more particularly one in the nature of Writ of Certiorari, calling for the records pertaining to the impugned ORDER in FORM-GST-RFD-06 in ARN. AA360724012162N dated 09.09.2024issued by the Respondent and to quash and set aside the said impugned ORDER in FORM-GST-RFD-06 in FORM-GST-RFD-06 in ARN. AA360724012162N issued by the Respondent dated 09.09.2024 issued by the Respondent under the provisions of Central Goods and Services Tax Act, 2017 /Telangana Goods and Services Tax Act, 2017 (TGST Act, 2017) as illegal, arbitrary, violative of principles of natural justice, and CGST Act, 2017 / TGST Act, 2017 and passed with a pure revenue consideration with consequential relief

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 stay/suspend all further proceedings, including penalty and recovery proceedings consequent to impugned ORDER in FORM-GST-RFD-06 ARN. AA360724012162N dated 09.09.2024 passed by the Respondent

IA NO: 2 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 Dispense with filing of the certified copy of the impugned ORDER in FORM-GST-RFD-06 ARN. AA360724012162Ndated 09.09.2024 issued by the respondent No. 1

Counsel for the Petitioner: SRI. JOSEPH PRABHAKAR REP
SRI SUDHAMALLA DINESH KUMAR

Counsel for the Respondent No.1: SRI VIJHAY K PUNNA, SC FOR CBIC

Counsel for the Respondent No.2 SC FOR CENTRAL GOVERNMENT

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HON'BLE SRI JUSTICE P.SAM KOSHY

WRIT PETITION NO.35758 OF 2024

ORDER:

Heard Mr. Joseph Prabhakar, learned counsel representing Mr. S.Dinesh Kumar, learned counsel for petitioner on record and Mr. Vijhay K.Punna, learned Senior Standing Counsel for CBIC appearing for respondent No.1

2. The rejection of refund application *vide* order dated 09.09.2024 for the period from September, 2022 to November, 2022 passed by the respondent-Assistant Commissioner, Gachibowli GST Division, is under challenge in the present writ petition.

3. Learned counsel for petitioner has referred to an order dated 05.12.2023 passed in Appeal by the Commissioner (Appeals) for the period 01.01.2021 to 31.03.2021 and submitted that the impugned order is completely based on that order dated 05.12.2023 without independent application of mind by the Assistant Commissioner, GST–respondent. The order dated 05.12.2023 passed by the Commissioner

(Appeals) has never been served upon the petitioner. It relates to the claim for refund of the period from 01.01.201 to 31.03.2021. It is submitted that in the absence of supply of copy of an order of the Commissioner (Appeals), thereby the refund sanctioned order passed in his favour has been set aside, the petitioner is not in a position to challenge the said decision before a higher forum. It is submitted that the observations of the learned Refund Sanctioning Authority – Deputy Commissioner, GST, would show that it is influenced by the order dated 05.12.2023 passed by the Commissioner (Appeals), relating to a different period from 01.01.2021 to 31.03.2021. Therefore, the prayer has been made that the impugned order may be set aside.

4. Counter-affidavit has been filed by the respondent opposing the prayer.

5. Upon hearing the learned counsel for petitioner and the respondent and after going through the impugned order and the relevant pleadings placed on record, we find that the rejection of refund application for the above period has been made after verification of the agreement and the services provided by M/s.ABB Global Industries and Services Private

Limited. The learned Deputy Commissioner, after verification of invoices and agreements, has arrived at the conclusion that the present claim also relates to the same claim filed for the period 01.01.2021 to 31.03.2021, which was subject matter of order passed by the Commissioner (Appeals), dated 05.12.2023.

6. Learned counsel for petitioner has pointed out that those invoices relate to the subsequent periods. The petitioner has been making refund applications for successive periods in respect of accumulated input tax credit based on the supplies made by M/s.ABB Global Industries and Services Private Limited. The rejection of the claim on the ground that those invoices and agreements relate to the same period, i.e., 01.01.2021 to 31.01.2021, is not correct on facts. However, in the absence of an order dated 05.12.2023 passed by the Commissioner (Appeals), petitioner is not in a position to either challenge the same or to question the findings recorded by the Deputy Commissioner, GST, in the rejection of refund claim application also.

7. We are of the considered view that the petitioner has bypassed an alternative remedy of appeal by approaching this

Court against the refund rejection order, dated 09.09.2024 for the period from September, 2022 to November, 2022.

8. The plea taken by the petitioner also appears to involve scrutiny and verification of invoices and agreements, which involved questions of facts that can be properly gone into by the Appellate Authority.

9. We are therefore of the view that the petitioner should avail an alternative remedy of appeal against the impugned order rejecting the refund application dated 09.07.2024. The Appellate Authority would consider the question of delay in preferring appeal taking into account that the petitioner had questioned the same before the Writ Court. The plea taken by the respondent No.1 that the order passed by the Commissioner (Appeals) dated 05.12.2023 was communicated to the petitioner through registered post. Learned counsel for petitioner submits that same has not been served upon the petitioner. In those circumstances, the order dated 05.12.2023 of the Commissioner (Appeals) be served upon the petitioner on his official e-mail address within a period of two weeks or physically if he appears before the concerned Office within the same period.

10. The instant Writ Petition is accordingly disposed of. However, there shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

SD/-A.H.S. GOWRI SHANKAR
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

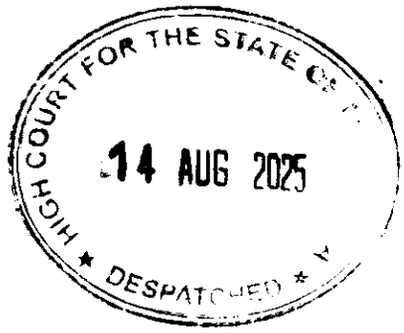
To,

1. The Deputy Commissioner of Central Tax Gachibowli GST Division, Ranga Reddy CGST Commissionerate, 4th Floor, Serene Heights, Humayun Nagar, Masab Tank, Hyderabad-500028.
2. The Secretary, Union of India, Ministry of Finance, New Delhi - 110001
3. One CC to SRI. SUDHAMALLA DINESH KUMAR, Advocate [OPUC]
4. One CC to SRI. VIJHAY K PUNNA ,SC FOR CBIC [OPUC]
5. One CC to SC FOR CENTRAL GOVERNMENT [OPUC]
6. Two CD Copies

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HIGH COURT

DATED:28/07/2025



ORDER

WP.No.35758 of 2024

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

13/8/25