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

THURSDAY ,THE TWELFTH DAY OF JUNE
TWO THOUSAND AND TWENTY FIVE

PRESENT

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

WRIT PETITION NO: 15741 OF 2025

Between:

M/s. RamaKrishna Medical Cloth and General Stores, rep by. its Proprietor. Sri. Satyanarayan Gehlot, S/o. late Chaturbhuj Gehlot, Age. 84 yrs, Occ. Business, R/ o. 16-4, Gandhi Chowk, Chennur - 504201

...PETITIONER

AND

1. Superintendent of Central Tax, Mancherial Range, Mancherial Division, Medchal Commissionerate
2. Union of India, Rep by its Secretary Ministry of Finance, North Block, 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 to issue a writ direction or order more particularly in the nature of a writ of mandamus declaring the. impugned Order-in-Original No. 78/2024-25-GST dated 22.01.2025 and the consequent demand raised in Form DRC 07 bearing reference no Reference No ZD360125052058L dated 30-01-2025 passed by respondent no.1 are void illegal arbitrary without jurisdiction and without authority of law and consequently set aside the same

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 stay the collection of tax pursuant to Order-in-Original No. 78/2024-25-GST dated 22.01.2025 and the consequent demand raised in Form DRC 07 bearing reference no Reference No ZD360125052058L dated 30-01-2025 passed by the Respondent No.1 pending disposal of the above writ petition

Counsel for the Petitioner: SRI. G. DURGA CHARAN

Counsel for the Respondent No.1: Ms. PRAVALIKA REP
SRI DOMINIC FERNANDES
(senior standing counsel for CBIC)

Counsel for the Respondent No.2: Ms. P.SUBHASHREE REP
SRI M. VIJAY KUMAR,
SC FOR CENTRAL GOVERNMENT

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.15741 of 2025

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

Sri G. Durga Charan, learned counsel for the petitioner; Ms. Pravalika, learned counsel representing Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, for respondent No.1 and Ms. P. Subhashree, learned counsel representing Sri M. Vijay Kumar, learned Standing Counsel for Central Government, for respondent No.2.

2. The challenge mounted in this petition filed under Article 226 of the Constitution of India is to the Order-in-Original (OIO) dated 22.01.2025.

3. Criticizing the impugned OIO, learned counsel for the petitioner submits that the said order is bad in law for twin reasons—i) the order is *ex facie* illegal because in the teeth of Section 73(5) of the Central Goods and Services Tax Act, 2017, if the tax was erroneously paid or short paid, they could have asked for the replenishment of the remaining amount of tax and ii) principles of natural justice were violated.

4. We have considered both the points. No doubt, in certain situations, a petition can be entertained despite availability of alternative remedy such as violation of principles of natural justice, *vires* of provision is called in question and order is passed by an incompetent authority. This principle was laid down by the Supreme Court in **Whirlpool Corporation v. Registrar of Trade Marks, Mumbai**[1]. However, the said judgment was again considered by the Supreme Court in **U.P. State Spinning Co. Ltd. v. R.S. Pandey and Another**[2] and it was opined as under:-

> *"17. ...But normally, the High Court should not entertain writ petitions unless it is shown that there is something more in a case, something going to the root of the jurisdiction of the officer, something which would show that it would be a case of palpable injustice to the writ petitioner to force him to adopt the remedies provided by the statute...."*

5. In the instant case, it is not argued that the impugned OIO is passed without authority of law or is passed by an incompetent authority. It is not shown, if the petitioner is relegated to avail the alternative remedy, it will cause any palpable injustice to it.

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[1] (1998) 8 SCC 1
[2] (2005) 8 SCC 264

6. Recently, the Supreme Court in its judgment dated 10.04.2024 in the case of **PHR Invent Educational Society Vs. UCO Bank and Others**[3] disapproved the order of this Court in W.P.No.5275 of 2021, dated 04.02.2022, wherein a Division Bench of this Court entertained a Writ Petition despite availability of alternative remedy. In the said judgment, the Supreme Court opined that merely because a petition is maintainable, it is not necessary to entertain a petition. It is the discretion of the Court to entertain a petition and not a compulsion. The relevant paragraph reads thus:

> *"15. It could thus be seen that, this Court has clearly held that* ***the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person. It has been held that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions.*** *The Court clearly observed that, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc., the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are a code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal of the grievance of any aggrieved person. It has been held that, though the powers of the High Court under Article 226 of the Constitution are of widest amplitude, still the Courts cannot be oblivious of the* ***rules of self-imposed*** *restraint evolved by this Court. The Court further held that though the rule of exhaustion of alternative remedy is a rule* ***of discretion and not one of compulsion,***

[3] (2024) 4 S.C.R. 541

still it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution."

(Emphasis Supplied)

7. Thus, even though the petition is maintainable, it cannot be said to be "entertainable" because of availability of statutory alternative remedy. No case is made out for short-circuiting the said alternative remedy and accordingly, this Writ Petition is not entertainable. Liberty is reserved to the petitioner to avail the alternative remedy.

8. The Writ Petition is **disposed of**. No costs.

Interlocutory applications, if any pending, shall also stand closed.

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

//TRUE COPY//

SECTION OFFICER

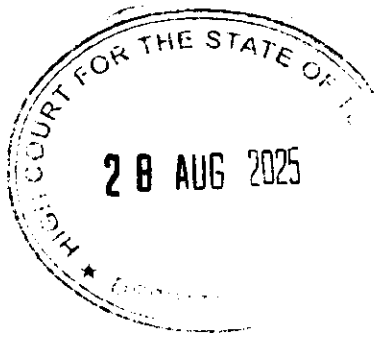
To,

1. The Superintendent of Central Tax, Mancherial Range, Mancherial Division, Medchal Commissionerate
2. The Secretary, Union of India, Ministry of Finance, North Block, New Delhi - 110001
3. One CC to SRI. G. DURGA CHARAN, Advocate [OPUC]
4. One CC to SRI. DOMINIC FERNANDES (senior standing counsel for CBIC) [OPUC]
5. One CC to SRI. M. VIJAY KUMAR, SC FOR CENTRAL GOVERNMENT [OPUC]
6. Two CD Copies

B/M
GJP

HIGH COURT

DATED:12/06/2025



ORDER

WP.No.15741 of 2025

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

(10) 8
S.B
4/7/25