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

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

PRESENT

THE HONOURABLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND

THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN

WRIT PETITION NOS: 26406 AND 26419 OF 2024

W.P.No.26406 of 2024

Between:

M/s. ADP Private Limited, Sy. No 88/AA and 88/E, Block-C, One West Building, Nanakramguda Village, Serilingampally, Hyderabad, Telangana - 500008. Rep. by vice President Finance Mr. V. Sachidananda Aithal.

.....PETITIONER

AND

1. The Additional Commissioner (Appeals-I), GST and Central Tax, 7th Floor, GST Bhavan, LB Stadium Road, Basheerbagh, Hyderabad - 500004.
2. The Deputy Commissioner of Central Tax, Gachibowli GST Division, Rangareddy GST Commissionerate, 4th Floor, H. No.10-3-301 to 303, Serene Heights, Humayan Nagar, Masab Tank, Hyderabad-500028.
3. The Commissioner of Central Tax, Rangareddy GST Commissionerate, 1-98/7/43, VIP Hills, Jai Hind Colony, Madhapur, Hyderabad-500081.
4. The Union of India, Through the Secretary to Government, 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, Order or direction particularly one in the nature WRIT OF MANDAMUS (a) setting aside the Impugned Order bearing Order No. HYD-GST-RRC-APP1-149-23-24 dated 29/09/2023 passed by the Respondent No.1 by disallowing the refund of Rs.5,67,38,698/- for the period October 2020 to

December 2020. (b) To uphold the Refund Sanction Order No. ZB3610220054791 dated 07/10/2022 passed by Respondent No.2.

I.A.NO:1 OF 2024

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to stay the operation of the Impugned Order bearing Order No. HYD-GST-RRC-APP1-149-23-24 dated 29/09/2023 in respect of issues challenged in this writ petition.

Counsel for the Petitioner : SRI NARENDRA DAVE, COUNSEL APPEARING FOR M/s LAKSHMI KUMARAN AND SRIDHARAN

Counsel for the Respondent Nos.1 to 3 : SMT BOKARO SAPNA REDDY

Counsel for the Respondent No.4 : DEPUTY SOLICITOR GENERAL OF INDIA

W.P.NO: 26419 OF 2024

Between:

M/s. ADP Private Limited,, Sy. No 88/AA and 88/E, Block-C, One West Building, Nanakramguda Village, Serilingampally, Hyderabad, Telangana 500008 Represented by Mr. Sachidanada Aithal Vice President Finance.

.....PETITIONER

AND

1. The Additional Commissioner (Appeals-I),, GST and Central Tax, 7th Floor, GST Bhavan, LB Stadium Road, Basheerbagh, Hyderabad 500004.
2. The Deputy Commissioner of Central Tax, Gachibowli GST Division, Rangareddy GST Commissionerate, 4th Floor, H. No.10-3-301 to 303, Serene Heights, Humayan Nagar, Masab Tank, Hyderabad-500028.
3. The Commissioner of Central Tax, Rangareddy GST Commissionerate, 1-98/7/43, VIP Hills, Jai Hind Colony, Madhapur, Hyderabad-500081.
4. The Union of India, Through the Secretary to Government, 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, Order or direction particularly one in the nature WRIT OF

MANDAMUS (a)setting aside the Impugned Order bearing Order No. HYD-GST - RRC - APP1-149-23-24 dated 29/09/2023 passed by the Respondent No.1 by disallowing the refund of Rs.6,95,26,819/- for the period July 2020 to September 2020. (b)To uphold the Refund Sanction Order No. ZC3609220027589 dated 01/09/2022 passed by Respondent No.2.

I.A.NO:1 OF 2024

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to stay the operation of the Impugned Order bearing Order No. HYD-GST-RRC-APP1-149-23-24 dated 29/09/2023 in respect of issues challenged in this writ petition.

Counsel for the Petitioner : SRI NARENDRA DAVE, COUNSEL APPEARING FOR M/s LAKSHMI KUMARAN AND SRIDHARAN

Counsel for the Respondent Nos.1 to 3 : SMT BOKARO SAPNA REDDY

Counsel for the Respondent No.4 : DEPUTY SOLICITOR GENERAL OF INDIA

The Court made the following COMMON ORDER

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

WRIT PETITION Nos. 26406 and 26419 of 2024

COMMON ORDER:

Sri Narendra Dave, learned counsel appears for M/s. Lakshmi Kumaran & Sridharan, learned counsel for petitioner.

Smt. B. Sapna Reddy, learned Senior Counsel for Central Board of Indirect Taxes & Customs appears for respondent Nos.1 to 3.

2. These two Writ Petitions assail the order-in-appeal passed by the Additional Commissioner (Appeals-I), Hyderabad, respondent No.1, in respect of July, 2020, to September, 2020, and October, 2020, to December, 2020, wherein the appellate authority *vide* common order dated 29.09.2023 has set aside the refund sanction orders dated 02.09.2022 and 07.10.2022 passed by the Deputy Commissioner of Central Tax, Hyderabad, *inter alia* holding that the Refund Sanctioning Authority erred in classifying the service as export of service without examining nature of

service, place of provision of service and the applicability of sub-section (3) to (13) of Section 13 of Integrated Goods & Services Tax Act, 2017 (for short 'IGST Act, 2017'), on the question whether the supply qualifies as export and whether the refund is permissible.

3. Learned counsel for the petitioner submits that being persuaded by the order-in-appeal passed for the above periods, the Refund Sanctioning Authority has been rejecting the prayer for refund for subsequent period i.e., April, 2022, to June, 2022, as would be apparent from the order dated 18.06.2024, Annexure P.12. It is submitted that the application for sanction of refund has not been undertaken after independent verification of the claim but being guided by the common order passed by the Additional Commissioner (Appeals-I) in the above departmental appeals filed for the previous year. It is submitted that the petitioner is ready to approach the Goods and Services Tax Appellate Tribunal, which is going to be constituted on 01.10.2025, for assailing the impugned appellate orders on all grounds of law and fact as may be available to the petitioner. However, till then, this Court may be pleased to

observe that the claims for refund for subsequent period should not be rejected simply on the basis of the impugned order-in-appeal passed in respect of the petitioner for previous tax periods.

4. Learned counsel for the department submits that the claim for refund for any subsequent period has to be processed or adjudicated on verification of all supporting documents, agreements etc in accordance with law. As such, the apprehension of the petitioner is misplaced. She submits that the impugned order-in-appeal passed by the appellate authority is not vulnerable as petitioner in the exercise for the instant claim for refund could not justify that its claim was fully based on the turnover of zero rated supply of services as stipulated under Rule 89(4)(D) of the Central Goods and Services Tax Rules, 2017 (for short 'the CGST Rules, 2017'). Moreover, the Refund Sanctioning Authority had failed to determine the adjusted total turnover as stipulated in Rule 89(4)(E) of the CGST Rules, 2017, in the absence of proper verification of the agreements covering the said tax period to ascertain the nature of service,place of provision of services as to whether the export of services qualify under Section 2(6) of IGST

Act. However, she does not object to the prayer of the writ petitioner to avail the appellate remedy before the GST Tribunal under Section 112 of the Central Goods and Services Tax Act, 2017.

5. In that view of the matter, both the instant Writ Petitions are disposed of with liberty to the petitioner to approach the GST Tribunal within a period of thirty (30) days of its constitution. Let it be made clear that we have not entered into the merits of the case of the parties. However, we deem it proper to observe that while deciding the petitioner's claims relating to subsequent period, the Refund Sanctioning Authority should not be influenced by the impugned order-in-appeal passed by respondent No.1 for previous period. There shall be no order as to costs.

Miscellaneous applications, if any pending, shall stand closed.

SD/- L. VIJAYA LAXMI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Additional Commissioner (Appeals-I), GST and Central Tax, 7th Floor, GST Bhavan, LB Stadium Road, Basheerbagh, Hyderabad 500004.
2. The Deputy Commissioner of Central Tax, Gachibowli GST Division, Rangareddy GST Commissionerate, 4th Floor, H.No.10-3-301 to 303, Serene Heights, Humayan Nagar, Masab Tank, Hyderabad-500028.
3. The Commissioner of Central Tax, Rangareddy GST Commissionerate, 1-98/7/43, VIP Hills, Jai Hind Colony, Madhapur, Hyderabad-500081.
4. The Secretary to Government, Union of India, Ministry of Finance, North Block, New Delhi 110001.
5. One CC to M/s LAKSHMI KUMARAN AND SRIDHARAN, Advocate [OPUC]
6. One CC to SMT. BOKARO SAPNA REDDY (SENIOR SC FOR CBIC) [OPUC]
7. One CC to DEPUTY SOLICITOR GENERAL OF INDIA, (OPUC)
8. Two CD Copies

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HIGH COURT

DATED:25/08/2025



COMMON ORDER

WP.Nos.26406 AND
26419 of 2024

DISPOSING BOTH THE
WRIT PETITIONS WITHOUT COSTS.

(10)

kpr
8/9/25