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

TUESDAY, THE 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 NO: 22071 OF 2025

Between:

M/s Adarsh Global Traders and Services Pvt. Ltd, Through Authorized Representative Office at. 1-10-3/1, Boorugu Vihar, Begumpet, Hyderabad – 500016.

And Having its Plot No.2, 2nd floor, Sitamahalakshmi Complex, Main Road Raj am, Srikakulam District, Andhra Pradesh-532127

...PETITIONER

AND

1. Union of India, Through Secretary, Ministry of Finance Department of Revenue Jeevan Deep Building Sansad Marg New Delhi-110001
2. Directorate General of GST Intelligence (DGGI), Through Director General 1st and 2nd Floor, Wing Number 06, West Block, 08 RK Puram, New Delhi, Delhi 110066. prdg.dggihqrs@gov.in
3. Principal Commissioner of Central Tax, Ranga Reddy GST Commissionerate, GST Bhavan, H.No. 1-8/7/43, VIP Hills, Jaihind Enclave, Madhapur, Hyderabad-500081
4. Director General of GST Intelligence, Hyderabad Zonal Unit H-No.1-11-222/4, Lane opp. HDFC Bank Begumpet, Hyderabad-500016.

...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 or and Order or Direction with more particularly in the nature of a Writ of Certiorari to quash the Order dated 27/11/2024 bearing OR No.61/2022-23-Adjn(ADC)GST and Order-in-Original No. 121/2024-25-Adjn(ADC)-GST and consequent Demand in Form GST DRC-07 dated 24/12/2024 bearing Ref.No.ZD361224032924H and Show Cause Notice dated 31/03/2022 bearing SCN No.167/2021-22(GST) as arbitrary, illegal, colourable

exercise of power and contrary to the provisions of the CGST Act, 2017. and further, illegal imposition and retention of penalty amounts paid by the Petitioner, in utter defiance of provisions of CGST Act being violative of the laws of the land and fundamental rights guaranteed to the Petitioner under Article 14, 19 and 21 of the Constitution of India and consequently set aside the same.

IA NO: 2 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 Order dated 27/11/2024 bearing OR No.61/2022-23-Adjn(ADC)GST and Order-in-Original No. 121/2024-25-Adjn(ADC)-GST and consequent Demand in Form GST DRC-07 dated 24/12/2024 bearing Ref.No.ZD361224032924H and Show Cause Notice dated 31/03/2022 bearing SCN No.167/2021-22(GST). and to grant the Petitioner an expeditious hearing pending disposal of the above Writ Petition.

Counsel for the Petitioner: Ms. A.JYOTHI RATNA, REP. FOR SRI M.K.VISWANATH NAIDU

Counsel for the Respondent No.1: SRI B.JITHENDER, CENTRAL GOVT. COUNSEL

Counsel for the Respondent No.2 to 4: SRI DOMINIC FERNANDES, Sr. SC FOR CBIC

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.22071 of 2025

Order:

Heard Ms. A.Jyothi Ratna, learned counsel representing Mr. M.K.Vishwanath Naidu, learned counsel for the petitioner and Mr. Dominic Fernandes, learned Senior Standing Counsel for Central Board of Indirect Taxes and Customs (CBIC) appearing for respondents No.2 to 4.

2. Petitioner has assailed the order-in-original dated 27.11.2024 and the summary of the order of GST dated 24.12.2024, as also the show cause notice dated 31.03.2022, issued under Section 74 of the Central Goods and Services Tax, 2017 (for short 'the CGST Act').

3. Learned counsel for the petitioner has assailed the impugned orders *inter alia* on the ground that the assessing officer has relied upon electronic devices, which were never seized from the premises of the petitioner during investigation

as per the panchanama dated 17.01.2019. The assessing officer has also relied upon the statements of number of witnesses, who were not allowed to be cross-examined. Learned counsel also contends that the respondents/Revenue has not proceeded against the supplier of the petitioner, if at all the taxes were not deposited by him. He has also taken a plea that though the order-in-original is digitally signed, the summary of the order of GST has not been digitally signed. Petitioner, having no other efficacious alternative remedy has, therefore, been compelled to approach this Court under Article 227 of the Constitution of India.

4. Learned Senior Standing Counsel for CBIC has strongly opposed the maintainability of the writ petition. It is submitted that though the order-in-original was duly communicated, the present writ petition has been filed after some delay. It is also submitted that the plea taken by the petitioner on facts and in law are open to be raised in the appeal proceedings. Therefore,

at this stage, this Court may refuse to entertain the writ petition.

5. On consideration of rival submissions of the parties, we are of the view that the petitioner has straight away invoked the jurisdiction of this Court under Article 226 of the Constitution of India without availing the alternative remedy of appeal under Section 107 of the CGST Act. In those circumstances, without entering into the merits of the plea raised by the petitioner, we deem it appropriate to relegate the petitioner before the appellate forum. It would be open for the petitioner to raise all grounds on facts and in law before the appellate authority.

6. At this stage, learned counsel for the petitioner submits that the writ petition has been filed after some delay on account of *bona fide* reasons. Therefore, the appellate authority may be directed to consider the question of delay sympathetically.

7. In that view of the matter, if the appeal is filed within a period of ten days from today with statutory pre-deposit, the appellate authority would consider the appeal in accordance with law.

8. Subject to the above, the Writ Petition is disposed of. It is made clear that we have not made any comments on the merits of the case. No costs.

As a sequel, miscellaneous petitions, pending if any, stand closed.

SD/-A.PRATHIMA
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Secretary, Ministry of Finance, Department of Revenue, Jeevan Deep Building, Sansad Marg, New Delhi, Union of India-110001
2. The Director General, Directorate General of GST Intelligence (DGGI), 1st and 2nd Floor, Wing Number 06, West Block, 08 RK Puram, New Delhi, Delhi 110066.
3. The Principal Commissioner of Central Tax, Ranga Reddy GST Commissionerate, GST Bhavan, H.No. 1-8/7/43, VIP Hills, Jaihind Enclave, Madhapur, Hyderabad-500081
4. The Director General of GST Intelligence, Hyderabad Zonal Unit H-No.1-11-222/4, Lane opp. HDFC Bank Begumpet, Hyderabad-500016.
5. One CC to SRI M.K.VISWANATH NAIDU, Advocate [OPUC]
6. One CC to SRI B.JITHENDER, CENTRAL GOVT. COUNSEL [OPUC]
7. One CC to SRI DOMINIC FERNANDES, Sr. SC FOR CBIC [OPUC]
8. Two CD Copies

BSR
LS

HIGH COURT

DATED: 05/08/2025



ORDER

WP.No.22071 of 2025

DISPOSING OF THE WRIT PETITION,

WITHOUT COSTS

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S.B.

28/8/25