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

THURSDAY ,THE THIRD DAY OF JULY
TWO THOUSAND AND TWENTY FIVE

PRESENT

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

WRIT PETITION NO: 13491 OF 2025

Between:

M/s.K.M.S.Agencies, represented by its Proprietor Sri Chinthala Chandrahas, aged 58 yrs, 10-1-185/6/2/A, Mangamma Thota, Siddipet,Telangana-502103.

...PETITIONER

AND

1. The Union of India, Rep. by its Secretary, Ministry of Finance, North Block, Delhi-1
2. The Asst. Commissioner of Central Tax and Central Excise and Service Tax, Medchal Division, Medchal Commissionerate, 8-2-77/3, Adithya Towers, Sri Sai Enclave, Old Bowenpally, Secunderabad - 500011,

...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 Wirt of Mandamus or any other appropriate Writ or Order or Direction declaring the action of the 2nd Respondent in passing the impugned Order in Original No.144/2024-25/GST/Medchal dated 24.02.2025 for the year 2020-21 disallowing Input Tax Credit and levying penalty at 10 percent on the said amount under Section 73 of the CGST Act, 2017 as illegal, arbitrary, contrary to law and in violation of the Principles of Natural Justice and set aside the same 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 impugned Order in Original No.144/2024-25/ GST /Medchal dated 24.02.2025 for the year 2020-21 disallowing Input Tax Credit and levying penalty at 10% on the said amount under Section 73 of the CGST Act, 2017 pending disposal of the Writ Petition as otherwise, the Petitioner will be put to irreparable loss and hardship

Counsel for the Petitioner: SRI. B. KRISHNA REDDY

Counsel for the Respondent No.1: SRI A. KRANTI KUMAR REDDY sc forcg

Counsel for the Respondent No.2: SRI DOMINIC FERNANDES, SENIOR SC for CBIC

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.13491 of 2025

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

Sri B.Krishna Reddy, learned counsel for the petitioner; Sri A.Kranthi Kumar Reddy, learned counsel for for respondent No.1 and Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, for respondent No.2.

2. Heard on admission.

3. This writ petition filed under Article 226 of the Constitution of India assails the Order-in-Original No.144/2024-25/GST/Medchal, dated 24.02.2025.

4. Learned counsel for the petitioner fairly submits that although the impugned order is appealable before the competent authority under the statute, this writ petition may be entertained because of violation of principles of natural justice. To elaborate, learned counsel for the petitioner submits that pursuant to a show cause notice issued to the petitioner, the petitioner filed detailed reply. The said reply has not been considered and the

impugned order contains mere reproduction of the reply filed by the petitioner. No reasons were assigned by the proper officer.

5. Learned Senior Standing Counsel for CBIC appearing for respondent No.2 opposed the same and relied on paragraph No.13 to 15.5 of the impugned order to submit that 'discussions and findings' are very much there. Even for the sake of argument, if the discussions and findings are erroneous, the same can be called in question before the appellate authority.

6. No other point is pressed by the learned counsel for the parties.

7. Learned counsel for the petitioner is right in contending that in certain situations, despite availability of alternative remedy, the writ petition can be entertained. Breach of principles of natural justice is also one of such eventuality. This was laid down by the Supreme Court in **Whirlpool Corporation v. Registrar of Trade Marks, Mumbai**[1]. This judgment of Supreme Court was again

[1] (1998) 8 SCC 1

considered 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...."*

8. In the light of this distinction made in **R.S.Pandey** (supra), the petitioner was required to show that the order was passed by an authority having no jurisdiction and if the petitioner is relegated to avail the alternative remedy, it will case palpable injustice to it. No jurisdictional issue is raised by the petitioner and therefore, in the light of the decision in **R.S.Pandey (supra),** we are not inclined to entertain this writ petition.

9. Apart from this, recently, the Supreme Court in **PHR Invent Educational Society Vs. UCO Bank and Others**[3] has turn down a Division Bench judgment of the Telangana High Court in W.P.No.5275 of 2021, dated 04.02.2022, where despite availability of alternative remedy, the writ petition was entertained. The

---

[2] (2005) 8 SCC 264
[3] (2024) 4 S.C.R. 541

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 as under:

> *"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, 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)

10. In view of the foregoing discussion, since the petitioner has a statutory efficacious alternative remedy, we are not inclined to entertain this writ petition.

11. Accordingly, the writ petition is **disposed of** by reserving liberty to the petitioner to avail the alternative remedy available under law. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

SD/- A. SRINIVASA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

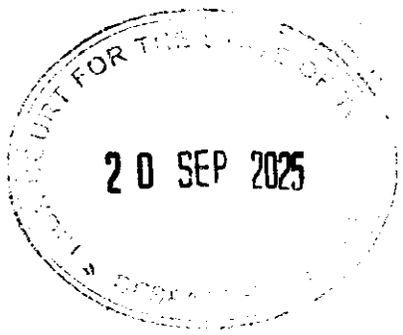
To,

1. The Secretary, Union of India, Ministry of Finance, North Block, Delhi-1
2. The Asst. Commissioner of Central Tax and Central Excise and Service Tax, Medchal Division, Medchal Commissionerate, 8-2-77/3, Adithya Towers, Sri Sai Enclave, Old Bowenpally, Secunderabad - 500011,
3. One CC to SRI. B. KRISHNA REDDY, Advocate [OPUC]
4. One CC to SRI. DOMINIC FERNANDES, Senior Councel for CBIC [OPUC]
5. One CC to SRI. A. KRANTI KUMAR REDDY, SC For CG [OPUC]
6. Two CD Copies

B M
GJP

HIGH COURT

DATED:03/07/2025



ORDER

WP.No.13491 of 2025

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

8
S.A.
3/9/25