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

TUESDAY, THE SECOND DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

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

WRIT PETITION NO: 10470 AND 10834 OF 2020

WP NO.10470 OF 2020:

Between:

1. Mr. Ved Prakash Agarwal, S/o Late Anand Swarup aged 60 years, Occ. Business R/o 18-7-445/10, Saraswatinagar Lalitabagh Road, Gowlipura Hyderabad.
2. Mr. Vivek Anand Agarwal, S/o Late Anand Swarup Aged 55 years, Occ.Business R/o 18-7-445/10, Saraswatinagar Lalitabagh Road, Gowlipura Hyderabad.
3. Mr. Vipul Anand Agarwal, S/o Late Anand Swarup Aged 49 years, Occ. Business R/o 18-7-445/10, Saraswatinagar Lalitabagh Road, Gowlipura Hyderabad.
4. Mrs. Laxmi Mittal, W/o Jagdish Prasad Mittal aged 63 years, Occ. Housewife R/o 5-3-672, Flat No.206 Shankarbagh, Tope Khana Nampally, Hyderabad.
5. Mrs. Rekha Devi Agarwal, W/o Sunil Kumar Agarwal aged 51 years, Occ. Housewife R/o G-3, H.No.8-2-6784/3 and 3/1 ANH Residency Legend Road 13, Banjara Hills Hyderabad.
6. Mrs. Gargi Devi Agarwal, W/o Ghanshyam Das Agarwal Aged 46 years, Occ. Housewife R/o 21-2-484, Charkaman Mittika Sher, Charminar Hyderabad.

...**PETITIONERS**

AND

1. The State of Telangana, Rep. by its Principal Secretary Revenue (State Tax) Department Secretariat, Hyderabad.
2. The Commissioner State Tax (GST), Charminar Division Nampally, Hyderabad.
3. The Deputy State Tax Officer, State Tax (GST) Ladbazar Circle Gaganvihar Complex, Nampally Hyderabad.
4. The Assistant Commissioner of State, Tax (GST) Charminar Division Gagan Vihar Nampally, Hyderabad.
5. Mr. Yagnanand Agarwal, S/o Vinod Anand Agarwal aged 34 years, Occ. Business R/o 18-7-445/77-78, Saraswatinagar Lalitabagh Road, Gowlipura Hyderabad.

...**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 order or direction more particularly one in the nature of

Writ of Mandamus, declaring the action of the 4th Respondent in issuing the Endorsement No. DSTO/REGN/2020 dated 24.06.2020, thereby refusing to cancel GSTN No.36ACPPY7866D1ZR dated 03.01.2020 in the name of 5th Respondent in respect of M/s. A.P. PRODUCTS which has been obtained by the 5th Respondent by playing fraud and on the basis of the forged and fabricated documents, and without following the provisions of CGST Act, 2017 and consequently set aside the impugned Endorsement dated 24.06.2020, thereby cancelling the GST Registration Certificate vide No. GSTN No.36ACPPY7866D1ZR dated 03.01.2020 issued by 3rd Respondent in favour of 5th Respondent in respect of A.P. Products as prayed for in the interest of justice.

IA NO: 1 OF 2020

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 GST Registration Certificate GSTN No.36ACPPY7866D1ZR dated 03.01.2020 issued by 3rd Respondent in favour of 5th Respondent in respect of M/s. A.P. PRODUCTS without any jurisdiction and also on the basis of forged and fabricated documents pending disposal of the writ petition

Counsel for the Petitioners: SRI R. A. ACHUTHANAND

Counsel for Respondent Nos. 1 to 4: SRI SWAROOP OORILLA,
SPECIAL GOVERNMENT PLEADER FOR STATE TAX

Counsel for Respondent No 5: SRI VEDULA SRINIVAS,
SENIOR COUNSEL

WP NO: 10834 OF 2020

Between:

Mr. Yagyanand,, S/o. Vinod Anand Agarwal, Aged about 34 years, R/o. H.Nos.18-7-445/77 to 78, Saraswathi Nagar, Lalitha Bagh Road, Gowlipura, Hyderabad -500053.

...PETITIONER

AND

1. State of Telangana., Rep, by its Principal Secretary, Department of Commercial Taxes, Secretariat, Hyderabad
2. The Commissioner of Commercial Taxes Department., C.T. Complex. Nampally. Hyderabad - 500001.
3. The Asst. Commissioner (ST),, Charminar Circle. Hyderabad.
4. Ved Prakash Agarwal., S/o late Anand Swaroop. R/O. 18-7-445/10. Saraswathi Nagar. Lalitha Bagh Road, Gowlipura. Hyderabad - 500053.

5. Vipul Anand., S/o. late Anand Swaroop. R/0. 18-7445 10. Saraswathi Nagar. Lalitha Bagh Road, Gowlipura, Hyderabad - 500053.
6. Vivek Anand., S/o. late Anand Swaroop. R/o. 18-7-445 10. Saraswathi Nagar. Lalitha Bagh Road. Gowlipura. Hyderabad - 500053.

...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 of Mandamus or any other appropriate Writ, Order or Orders, Direction or Directions to declare the action of the 3rd respondent in issuing registration certificate bearing No.36ABQFA8812MIZU dated 28.03.2020 under the provisions of TSGST Act, 2017, in favour of the respondents 4 to 6 for running the business in the name of M/s.A.P. Products at 18-7-445/1, 2 and 7, Saraswathi Nagar, Lalitha Bagh Road, Gowlipura, Hyderabad - 500053, as illegal, arbitrary and unconstitutional and to set aside the same and to issue a consequential direction to the 3rd respondent not to interfere with the business of the petitioner carried on under registration certificate No.36ACPPY7866BIZR dated 03.01.2020 in respect of M/s. A.P. Products carried on the premises at 18-7-445/1, Saraswathi Nagar, Lalitha Bagh Road, Gowlipura, Hyderabad - 500053, except by following due process of law

IA NO: 1 OF 2020

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 registration certificate issued by the respondent bearing No.36ABQFA8812M1ZU dated 28.03.2020 under the provisions of TSGST Act, 2017, in favour of the respondents 4 to 6 for running the business in the name of M/s.A.P. Products at 18-7-445/1, 2 & 7, Saraswathi Nagar, Lalitha Bagh Road, Gowlipura, Hyderabad - 500053, pending disposal of the Writ Petition and to pass

Counsel for the Petitioners: SRI VEDULA SRINIVAS, SENIOR COUNSEL

Counsel for Respondent Nos. 1 to 3: SRI SWAROOP OORILLA, SPECIAL GOVERNMENT PLEADER FOR STATE TAX

Counsel for Respondent Nos. 4 to 6: SRI R. A. ACHUTHANAND

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

I.A.No.2 OF 2020 IN/AND WRIT PETITION No.10470 OF 2020
AND
I.A.No.1 OF 2021 IN/AND WRIT PETITION No.10834 OF 2020

COMMON ORDER:

Since both the writ petitions are integrally connected, they are being disposed by this Common Order.

W.P.No.10470 of 2020:

2. Heard Sri R.A.Achuthanand, learned counsel for the petitioners, Sri Swaroop Oorilla, learned Special Government Pleader for State Tax for official respondent Nos.1 to 4 and Sri Vedula Srinivas, learned Senior Counsel for respondent No.5.

W.P.No.10834 of 2020:

3. Heard Sri Vedula Srinivas, learned Senior Counsel for the petitioner, Sri Swaroop Oorilla, learned Special Government Pleader for State Tax for official respondent Nos.1 to 3 and Sri R.A.Achuthanand, learned counsel for the respondent Nos.4 to 6.

4. The core issue in these two writ petitions involves a dispute over the GST registration and business succession of M/s. A.P. Products (Anand Masala), a spices/masala manufacturer, after the death of its proprietor, Sri Anand Swaroop Agarwal, who died on 09.12.2019.

5. Shorn of the unnecessary details, the factual background essential for the adjudication of the present writ petitions as culled out from the pleadings, is as under:

i) that Sri Anand Swaroop Agrawal was the founder/proprietor of M/s. A.P. Products;

ii) that Sri Anand Swaroop Agarwal as proprietor of M/s. A.P.Products was registered for State Tax and a registration certificate No.36AIRPS7783HIZA was issued in his name on 18.07.2018;

iii) that Sri Anand Swaroop Agarwal died on 09.12.2019;

iv) that Sri Yagnanand Agarwal, who is the grandson of Sri Anand Swaroop Agarwal (hereafter 'grandson' for brevity), claiming under a Will of Sri Anand Kumar Agarwal dated 11.10.2019 (hereafter 'Will' for brevity) applied for a fresh registration under the provisions of the Telangana State Goods and

Service Tax Act, 2017 (hereafter 'Act' for brevity) and obtained registration certificate No.36ACPPY7866D1ZR dated 03.01.2020;

v) that the petitioner Nos.1 to 3 in W.P.No.10470 of 2020, who are the sons of Sri Anand Swaroop Agarwal (hereafter 'sons' for brevity), after the death of their father Sri Anand Swaroop Agarwal formed a partnership, and applied for and obtained a registration certificate bearing No.36ABQFA8812MIZU dated 28.03.2020 in the name of M/s. A.P.Products;

vi) that the 'grandson' filed O.S.No.3278 of 2019 on the file of the VIII Junior Civil Judge, City Civil Court, Hyderabad seeking a permanent injunction restraining the 'sons' from interfering with business of M/s. A.P.Products;

vii) that I.A.No.1415 of 2019 filed in the said suit O.S.No.3278 of 2019 for temporary injunction was dismissed by the Civil Court and the injunction refused holding that the 'Will' claimed to have been executed by Sri Anand Swarooop Agarwal in favour the 'grandson' appears to be forged; be it noted here that the 'grandson' filed CMA No.42 of 2020 against

the order of dismissal of the said I.A.No.1415 of 2019;

viii) that the 'sons' lodged a criminal complaint with the Police CCS, Hyderabad which registered a Crime in FIR No.2 of 2020 against the 'grandson' and others under sections 420, 465, 467 and 468 of IPC, wherein investigation is pending;

ix) that the 'sons' filed O.S.No.283 of 2020 on the file of the VIII Additional District and Sessions Judge, Ranga Reddy District for partition of the properties of Sri Anand Swaroop Agarwal;

x) that the 'grandson' previously filed W.P.No.3453 of 2020 before the High Court alleging the freezing of the bank account and interfering with the business of the firm by police and the same was closed recording the statement made on behalf of the police that the bank account was not freezed and that the police was interfering with the business of the 'grandson';

xi) that the 'sons' made representation to the TSGST authorities dated 28.05.2020 seeking the cancellation of registration certificate issued to the 'grandson' on the ground that it was obtained by

playing fraud and on the basis of forged and fabricated documents, which was disposed by the TSGST authorities with an Endorsement dated 24.06.2020 refusing to cancel the GST registration certificate of the 'grandson';

xii) that the 'grandson' is seeking a declaration that issuing GST registration certificate to the 'sons' for running the business in the name of M/s. A.P. Products at the same place of business where GST registration of the 'grandson' was issued, is illegal;

6. W.P.No.10470 of 2020 is filed by the 'sons' and daughters of late Sri Anand Swaroop Agarwal aggrieved by the endorsement dated 24.06.2020 of respondent No.4 refusing to cancel the GST registration of the 'grandson'.

7. W.P.No.10834 of 2020 is filed by the 'grandson' seeking a declaration that issuing GST registration certificate dated 28.03.2020 to the 'sons' for running the business in the same name of M/s. A.P. Products at the same place of business where GST registration of the 'grandson' was issued, is illegal.

8. Sri R.A.Achuthanand, learned counsel for the 'sons' contended that the TSGST authorities issued the registration

certificate dated 03.01.2020 to the 'grandson', on the basis of a forged and fabricated 'Will'. Learned counsel further contended that the Civil Court in I.A.No.1415 of 2019 in O.S.No.3278 of 2019 had observed that the 'Will' relied upon by the 'grandson' was forged and fabricated.

9. The learned counsel for the 'sons' also contended that the Assistant Commissioner of State Tax (respondent No.4) erred in stating in the impugned endorsement dated 24.06.2020 that it was not possible to initiate cancellation proceedings against the TSGST registration certificate of the 'grandson' without any direction. The learned counsel further contended that the Assistant Commissioner of State Tax (respondent No.4) has relied upon and misinterpreted the order of the High Court in W.P.No.3453 of 2020 which merely recorded the statement of the police authorities that they did not freeze the bank account of the 'grandson' or interfered with the business of the 'grandson' as some sort of restraint against all authorities from taking action against the business of the 'grandson'. Learned counsel for the 'sons' further contended that the 'sons' of late Sri Anand Swaroop Agarwal, being his legal heirs, had formed a partnership and the TSGST authorities had issued a registration certificate to the partnership in the name of

M/s. A.P. Products and that there cannot be two certificates existing in respect of one business and prayed for a direction to the TSGST authorities to cancel the fraudulently obtained registration certificate of the 'grandson'. The learned counsel contended furthermore that the 'grandson' applied for the registration on the same day of death of Sri Anand Swaroop Agarwal establishing the *mala fides* of the 'grandson'.

10. The learned counsel contended that this Court had suspended the TSGST registration certificate issue in favour of the 'grandson' by order dated 17.07.2020 noticing the above facts and circumstances. The learned counsel also sought dismissal of W.P.No.10830 of 2020 filed by the 'grandson'.

11. *Per contra*, Sri Vedula Srinivas, learned Senior Counsel appearing for the 'grandson' contended that late Sri Anand Swaroop Agarwal executed the 'Will' bequeathing all his properties in favour of the 'grandson'. Learned Senior Counsel further contended that the observation of the Civil Court in the order made in an interlocutory application with regard to the 'Will' being forged cannot be taken note of in view of the fact that a Civil Miscellaneous Appeal has been preferred against the said order in the interlocutory application. Learned Senior Counsel further contended that the opinion of the Civil Court

was formed on the basis of a photocopy of the Will in the absence of examination/cross-examination of the handwriting expert and cannot be relied upon.

12. Learned Senior Counsel contended that a valid TSGST registration certificate exists in favour of the 'grandson' which was issued by the TSGST authorities after fulfillment of all the statutory requirements. Learned Senior Counsel further contended that the determination of the genuineness of the Will was in the domain of the Civil Court and not that of the TSGST authorities and that the request of the 'sons' to cancel the TSGST registration certificate of the 'grandson' on the basis of the 'Will' being forged and fabricated, in the absence of any determination by the Civil Court, cannot be countenanced.

13. Learned Senior Counsel contended that though Section 29 of the TSGST Act provides for cancellation of registration by the legal heirs in the case of death of the registered person, none of the contingencies existed in the present case, where registration granted in favour of the 'grandson' can be cancelled, more particularly at the instance of the 'sons'. Learned Senior Counsel further contended that a separate/different registration certificate could not have been issued by the TSGST authorities in favour of the 'sons' for the same business at the same

premises and faulted the action of the authorities in issuing the registration certificate to the 'sons' and the inaction on the representation of the 'grandson' for cancellation of the same.

14. Learned Senior Counsel contended that the 'sons' had suppressed material facts, like their relation with late Sri Anand Swaroop Agarwal being strained on account of the 'sons' running parallel business under the name of 'Bharatiya Anand G Food Products' by misusing the Trademark 'Anand Masala'. The 'sons' also suppressed the fact that Sri Anand Swaroop Agarwal had filed and succeeded in C.S.No.129 of 2008 before the Madras High Court alleging infringement of Trademark 'Anand' by the 'sons' by deceptively prefixing 'Bharatiya' and thereby damaging the goodwill. Learned Senior Counsel contended that it was in the light of such illegal acts on the part of the 'sons' that Sri Anand Swaroop Agarwal executed the 'Will' in favour of the 'grandson' bequeathing his properties including the business of 'A.P. Products'.

15. Learned Senior Counsel submitted that this Court had suspended the TSGST registration certificate of the 'sons' by order dated 22.07.2020 in I.A.No.1 of 2020 in W.P.No.10834 of 2020 after noticing the above said facts and circumstances.

16. Learned Senior Counsel sought cancellation of the TSGST registration certificate of the 'sons' and the dismissal of W.P.No.10470 of 2020 filed by the 'sons'.

17. We have perused the pleadings and documents and have also taken note of the respective contentions urged on behalf of the parties.

18. In the present writ petitions, central to the case is the validity of the Will dated 11.10.2019. The question whether the 'Will' is genuine as claimed by the 'grandson' or is forged as claimed by the 'sons' is *sub judice*. The genuineness and the validity of the Will dated 11.10.2019 is contested and has not been conclusively adjudicated. No declaration has been obtained by either party that the Will is forged nor has it been conclusively upheld. All substantive disputes above the genuineness and the validity of the Will, the lawful succession and entitlement of business of late Sri Anand Swaroop Agarwal remain *sub judice* under Civil Courts.

19. The proper assignment/transfer/registration of TSGST of Sri Anand Swaroop Agarwal in favour of the 'grandson' or the 'sons' is dependent on the outcome of the pending proceedings in the Civil Court, particularly in Suit *vide* O.S.No.283 of 2020

filed by the 'sons' for partition of the property of late Sri Anand Swaroop Agarwal.

20. This Court is of the considered opinion that the civil disputes and/or conflicting claims like the genuineness and validity of instruments like will, succession etc., should not be adjudicated by the TSGST authorities and that the appropriate jurisdiction in such matters lies with the Civil Court.

21. We have noticed that this Court in W.P.No.10470 of 2020 (filed by the sons) by interim order dated 17.07.2020 suspended the GST registration certificate bearing GSTN 36ACPPY7866D1ZR dated 03.01.2020, granted in favour of respondent No.5 therein (grandson) and that respondent No.5 therein (grandson) filed I.A.No.2 of 2020 in W.P.No.10470 of 2020, for vacating the interim order. We hereby allow I.A.No.2 of 2020 and revoke the suspension of GST registration certificate bearing GSTN 36ACPPY7866D1ZR dated 03.01.2020.

22. In **W.P.No.10470 of 2020**, this Court is of the view that since the partition suit *vide* O.S.No.283 of 2020 is pending on the file of the VIII Additional District and Sessions Judge, Ranga Reddy District, petitioner Nos.1 to 3 (plaintiffs in the said Suit) have the right to claim their share in the property including the

business(es) of late Sri Anand Swaroop Agarwal in the said Suit. Respondent No.4 shall take action in accordance with law in the matter of initiating cancellation proceedings of the GST registration in favour of the 'grandson' in respect of M/s. A.P. Products, after the determination of the rights of the parties in the said Suit.

23. We have also noticed that similarly in I.A.No.1 of 2020 in W.P.No.10834 of 2020 (filed by the grandson), this Court passed an interim order suspending the GST registration certificate bearing GSTN 36ABQFA8812MIZU, dated 28.03.2020 of respondent Nos.4, 5 and 6 therein (sons) and that respondent Nos.4, 5 and 6 therein (sons) have filed I.A.No.1 of 2021 in W.P.No.10834 of 2020 for vacating the interim order. We hereby allow I.A.No.1 of 2021 in W.P.No.10834 of 2020 and revoke the suspension of GSTN 36ABQFA8812MIZU, dated 28.03.2020.

24. In **W.P.No.10834 of 2020**, this Court is of the view that since the partition Suit *vide* O.S.No.283 of 2020 is pending on the file of the VIII Additional District and Sessions Judge, Ranga Reddy District, the petitioner (arrayed as defendant No.6 in the said Suit) has the right to claim his share in the property including the business(es) of late Sri Anand Swaroop Agarwal in

the said Suit. Respondent No.3 shall take action in accordance with law in the matter of verification of propriety and legality of issuance of GST registration in favour of the 'sons' in respect of M/s. A.P. Products after the determination of the rights of the parties in the said Suit.

25. Accordingly, the Writ Petitions are disposed of. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, shall stand closed.

SD/-P. PONNA KRISHNA
ASSISTANT REGISTRAR

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SECTION OFFICER

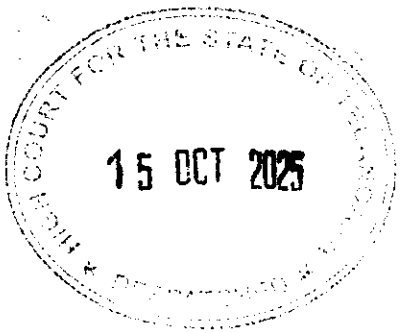
To,

1. The Principal Secretary Revenue (State Tax) Department, State of Telangana Secretariat, Hyderabad.
2. The Commissioner State Tax (GST), Charminar Division Nampally, Hyderabad.
3. The Deputy State Tax Officer, State Tax (GST) Ladbazar Circle Gaganvihar Complex, Nampally Hyderabad.
4. The Assistant Commissioner of State, Tax (GST) Charminar Division Gagan Vihar Nampally, Hyderabad.
5. One CC to Sri R A Achuthanand Advocate [OPUC]
6. Two CCs to GP For Revenue ,High Court for the State of Telangana. [OUT]
7. Two CCs to Sri Swaroop Oorilla, Special Government Pleader, High Court for the State of Telangana. [OUT]
8. Two CD Copies

MBC
GJP

HIGH COURT

DATED: 02/09/2025



COMMON ORDER

WP NOS: 10470 AND 10834 OF 2020

DISPOSING OF THE WRIT PETITIONS

WITHOUT COSTS

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15/10/25