

APHC010501442023



**IN THE HIGH COURT OF ANDHRA PRADESH  
AT AMARAVATI  
(Special Original Jurisdiction)**

**[3488]**

WEDNESDAY ,THE EIGHTEENTH DAY OF SEPTEMBER  
TWO THOUSAND AND TWENTY FOUR

**PRESENT**

**THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO**

**THE HONOURABLE SRI JUSTICE HARINATH.N**

**WRIT PETITION NO: 26244/2023**

**Between:**

M/s. S K S Traders

**...PETITIONER**

**AND**

Assistant Commissioner Of State Tax and Others

**...RESPONDENT(S)**

**Counsel for the Petitioner:**

1.J.N VENKATA SURESH KUMAR

**Counsel for the Respondent(S):**

1.GP FOR COMMERCIAL TAX

**The Court made the following ORDER:**

(Per Hon'ble Sri Justice R. Raghunandan Rao)

Heard Sri J.N. Venkata Suresh Kumar, learned counsel appearing for the petitioner and learned G.P. for Commercial Tax for the respondents.

2. The petitioner had suffered an order of assessment, under the A.P. Goods and Services Tax, 2017 (for short GST Act), issued by the 2<sup>nd</sup> respondent dated 13.01.2023. Under this order of assessment, the petitioner was declared to be liable to pay Rs.2,84,10,044/-.

3. The 2<sup>nd</sup> respondent for recovery of the said amounts, had initiated proceedings whereby attachment order in FORM GST DRC – 22, dated 03.11.2022 and Garnishee notice in FORM GST DRC -13, dated 20.04.2023, were issued to respondents 3 to 5.

4. The petitioner had approached respondents 1 and 2, by way of a representation dated 07.07.2023, contending that the petitioner had filed an appeal against the said order of assessment and had also paid 10% of the disputed tax, as required under Section 107 of the Central Goods and Services Tax Act, 2017 and consequently, the orders of Garnishee and attachment would have to be raised.

5. The petitioner has approached this Court by way of the present writ petition, complaining inaction on the part of respondents 1 and 2 in lifting the said order of attachment and Garnishee and in considering the representation of the petitioner dated 07.07.2023, despite passage of more than one year.

6. In view of the fact that the petitioner has preferred an appeal and has paid 10% of the disputed tax, as required under Section 107 of the CGST Act, no further tax can be recovered from the petitioner, in pursuance of the order of assessment under appeal. In such circumstances, continuation of the order of attachment and Garnishee is clearly impermissible and against the provisions of Section 107 of the CGST Act.

7. Though, the relief sought is only a direction to dispose of the representation of the petitioner, dated 07.07.2023, there would be no point in

driving the petitioner to go before respondents 1 and 2 for determination of a predetermined fact.

8. In the circumstances, this writ petition is disposed of setting aside the order of attachment dated 03.11.2022 of the 2<sup>nd</sup> respondent and Garnishee notice issued by the 1<sup>st</sup> respondents 20.04.2023. There shall be no order as to costs.

As a sequel, pending miscellaneous applications, if any, shall stand closed.

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**R. RAGHUNANDAN RAO, J**

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**HARINATH.N, J**

Js.

**HONOURABLE SRI JUSTICE R. RAGHUNANDAN RAO**

**And**

**HONOURABLE SRI JUSTICE HARINATH.N**

**W.P.No.26244 of 2023**

18<sup>th</sup> September, 2024

Js.