

THE HONOURABLE SRI JUSTICE SUJOY PAUL

AND

THE HONOURABLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

WRIT PETITION No.24412 of 2024

ORDER (*per Hon'ble SP,J*)

Sri K. Govinda Rao, learned counsel, appears for the petitioner, Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, appears for respondent No. 1 and Sri B. Mukherjee, learned counsel representing Sri Gadi Praveen Kumar, learned Deputy Solicitor General of India, appears for respondent No. 2.

2. Learned counsel for the petitioner submits that the petitioner received a show-cause notice issued by the respondent No. 1. Although petitioner filed a reply, he did not raise objection regarding jurisdiction of the authority who has issued the notice. By taking this Court to page No. 50, which deals with "*jurisdiction and officers*", learned counsel for the petitioner submits that the petitioner's registration is at Gachibowli GST Division, which is at Ranga Reddy District. The respondent No. 1 did not have jurisdiction to issue the impugned show-cause notice. Thus, impugned Order-in-Original, founded upon said show-cause notice, is bad in law. Although petitioner has a

statutory remedy of filing appeal under Section 107 of the Central Goods and Service Tax Act, 2017 (‘the Act’), the said appellate authority will not be able to decide the question of jurisdiction of the authority who has issued the notice and passed the Order-in-Original.

3. Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, opposed the same and submits that the impugned show-cause notice and the Order-in-Original were issued by the competent authorities and the petitioner has a remedy of appeal.

4. The point raised by the petitioner regarding jurisdiction is not a pure question of law. Instead, it is a mixed question of fact and law. Thus, the appellate authority is best suited to decide the said question. We are unable to hold that under Section 107 of the Act, appellate authority is not competent to decide the question of jurisdiction of officers, who have issued the impugned notice and Order-in-Original. In view of statutory remedy available to the petitioner, the petitioner is relegated to avail the said remedy. In the interest of justice, it is observed that if petitioner raises the issue of jurisdiction in its appeal memo, it will be lawful for the appellate authority to decide the said issue in accordance with law.

5. With aforesaid and without expressing any opinion on merits, the writ petition is disposed of. The time consumed before this Court shall not be counted for the purpose of reckoning limitation by the appellate authority. No costs.

Interlocutory applications, if any pending, shall also stand closed.

Sujoy Paul, J

Namavarapu Rajeshwar Rao, J

Date: 05.09.2024
Myk/Tsr

