

APHC010567922024



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

[3508]

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

PRESENT

**THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO
THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM**

WRIT PETITION NO: 29748/2024

Between:

Sfc Environmental Technologies Limited

...PETITIONER

AND

Union Of India and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.SAI SUNDEEP MANCHIKALAPUDI

Counsel for the Respondent(S):

1.GP FOR COMMERCIAL TAX

2.

The Court made the following order:

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

The petitioner, is in the business of providing solutions for Environmental Technology, especially sewage treatment and municipal solid waste treatment. The petitioner is said to have placed an order for certain components on a manufacturer, situated in Telangana State. When the goods

were being transported from Telangana to the premises of a customer of the petitioner, in Karnataka, the goods were stopped by the 4th respondent, in Andhra Pradesh, and process was initiated for seizure and confiscation of the said goods. At that stage, the petitioner is said to have paid the penalty payable in such cases and got the goods and vehicle released.

2. Subsequently, the 4th respondent issued a show cause notice, dated 29.10.2024, calling upon the petitioner to show cause why the penalty amount collected earlier, should not be confirmed against the petitioner. In response to this show cause notice, the petitioner filed a response, dated 31.10.2024. In this response, the petitioner took the stand that the time, as statutorily available to the petitioner, to furnish the response to the show cause notice is seven days, despite which, the 4th respondent had foreclosed the same and sent notices of personal hearing even before the earlier seven days period is over.

3. Subsequently, the 4th respondent passed an order, dated 05.11.2024, confirming the penalty amount which has already been collected from the petitioner. Aggrieved by the same order, the petitioner had approached this Court.

4. The learned Government Pleader for Commercial Taxes submits that this Writ Petition is not maintainable in view of the Judgment of a Division Bench of this Court, dated 01.02.2022, in W.P.No.2260 of 2022, wherein the Division Bench, following the Judgment of the Hon'ble Supreme Court in **The**

State of Uttar Pradesh & others vs. M/s. Kay Pan Fragrance Pvt. Ltd.,¹ had held that writ petitions should not be entertained against the orders of seizure and confiscation and that the petitioners therein should be relegated to the regular remedies under the relevant Act.

5. This Judgment, may not be applicable to the present case, in as much as the main contention caused by the petitioner is on questions of violation of principles of natural justice and violation of the minimum period, of seven days, granted under the notice issued to the petitioner.

6. In the present case, the show cause notice was issued on 29.10.2024, while the order of penalty was passed on 05.11.2024, within the aforesaid period of seven days provided under the notice issued to the Petitioner.

7. Form GST MOV 07 issued under Section 129(3) of the CGST Act stipulates that time of seven days is given for answering the show cause notice.

8. In the circumstances, there is a clear procedural violation prescribed under the Act. Apart from the same, it would also amount to violation of principles of natural justice as adequate opportunity has not been given to the petitioner.

9. Consequently, the order of penalty, dated 05.11.2024, bearing GST MOV-07 passed by the 4th respondent is set aside and the matter is

¹ (2020) 5 SCC 811

remanded back to the 4th respondent to pass necessary orders after due opportunity of hearing and opportunity of making out its case is given to the petitioner, in accordance with law.

10. Accordingly, this Writ Petition is allowed. There shall be no order as to costs.

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

JUSTICE R.RAGHUNANDAN RAO

JUSTICE MAHESWARA RAO KUNCHEAM

RJS

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

&

HON'BLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

WRIT PETITION NOS: 29748 of 2024

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

Dt: 18.12.2024

RJS