



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

[3525]

WEDNESDAY, THE FIFTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE DR JUSTICE K MANMADHA RAO

W.P.Nos.3480 & 6504 of 2020 and 3974 & 4419 of 2021

WRIT PETITION NO: 3480/2020

Between:

Sri Durga Granites

...PETITIONER

AND

The Deputy Assistant Commissioner and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.G NARENDRA CHETTY

Counsel for the Respondent(S):

1.GP FOR COMMERCIAL TAX (AP)

The Court made the following Common Order: *(per Hon'ble Sri Justice R. Raghunandan Rao)*

The petitioners in all these Writ Petitions have raised similar grounds and they are being disposed of by way of a Common Order.

2. Heard Sri G. Narendra Chetty, learned counsel for the petitioners and the Learned Government Pleader for Commercial Tax for the respondents.

3. In all these cases the petitioners, who are dealers in Granites products, had suffered Orders of assessment which are now challenged before this Court. The details of the Assessment Orders are given below:-

S.N o.	Writ Petition No.	Date of Assessment Order	Name of the Authority passed by the Impugned Assessment Order
1.	3480 of 2020	08.01.2020	The Deputy Assistant Commissioner (ST)- IV, Madanapalle Circle, Madanapalle Chittoor District, A.P.
2.	6504 of 2020	07.02.2020	The Deputy Assistant Commissioner (ST)- III, Chittoor-I Circle, Chittoor District, A.P.
3.	3974 of 2021	09.01.2020	The Deputy Assistant Commissioner (ST)- II, Puttur Circle, Chittoor District, A.P.
4.	4419 of 2021	Nil (IGST Order No.ZH370920OD95557)	The Deputy Assistant Commissioner (ST)- III, Chittoor-I Circle, Chittoor District, A.P.

4. The main contention raised by the learned counsel for the petitioners, is that a preliminary notice under Rule-142(1)(A) of the Central Goods and Services Tax Rules, 2017 [for short “the CGST Rules”] would have to be issued before a proper show-cause notice and subsequent Order of assessment can be issued. He would contend that the said requirement is a mandatory requirement and any failure to adhere to such a requirement would render the Orders of assessment invalid.

5. It is the admitted case, on both sides, that such notices under Rule-142(1)(A) of the CGST Rules have not been issued to the petitioners, prior to the Orders of assessment.

6. Rule-142(1)(A) of the CGST Rules, was amended with effect from 15.10.2020. Prior to the amendment, the Rules stated that a notice under Rule-142(1)(A) of the CGST Rules “shall” be issued as a preliminary step for conduct of a assessment proceeding. The word “shall” was replaced with a word “may” by virtue of the amendment.

7. A Division Bench of this Court by Judgment, dated 13.10.2023, in W.P.No.12850 of 2022, in the case of M/s. New Morning Star Travels Vs. The Deputy Commissioner (ST), Vijayawada, after considering the said issue, had held that non issuance of Rule-142(1)(A) of the CGST Rules, for the period prior to the amendment, would render the Orders of assessment is invalid.

8. As all the assessments are prior to the amendment, the ratio of the Judgment of the Division Bench, mentioned above, would squarely apply to these cases.

9. Accordingly, these Writ Petitions are allowed setting aside the assessment orders, under challenge, as mentioned in the above table, and the matters are remanded back to the concerned assessing officers for appropriate consideration and for passing Orders after issuance of notice under Rule-142(1)(A) of the CGST Rules, to the petitioners. There shall be no order as to costs.

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

R. RAGHUNANDAN RAO, J.

DR K MANMADHA RAO, J.

BSM

HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

AND

THE HONOURABLE DR JUSTICE K MANMADHA RAO

W.P.Nos.3480 & 6504 of 2020 and 3974 & 4419 of 2021

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

Date: 05.03.2025

BSM