



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

[3529]

WEDNESDAY, THE EIGHTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 24140/2025

Between:

1. BABA AGRICULTURE EXPORT, THROUGH ITS MANAGING PARTNER, SHRI.SHAIK BAJI, HAVING ITS REGISTERED OFFICE AT 25-25-2, OPP. MIRCHI YARD ROAD, GUNTUR, ANDHRA PRADESH - 522004.

...PETITIONER

AND

1. UNION OF INDIA, REPRESENTED BY ITS SECRETARY, MINISTRY OF FINANCE (DEPARTMENT OF REVENUE), NORTH BLOCK, NEW DELHI - 110001.

2. THE ASSISTANT COMMISSIONER, OFFICE OF DEPUTY/ CENTRAL COMMISSIONER OF CENTRAL TAX, CENTRAL GST DIVISION, GUNTUR, D.NO. 3-1-197/5, OPP LOCL PETROL BUNK, PATTABIPURAM MAIN ROAD, GUNTUR, ANDHRA PRADESH - 522 006.

3. THE SUPERINTENDENT OF CENTRAL TAX, PATNAM BAZAR RANGE, D.NO .11-1-73/1, 1ST FLOOR, VASUNDHARA BLDGS, RAJAJI BHAVAN, JINNA TOWER CENTRE, GUNTUR, ANDHRA PRADESH-522001

...RESPONDENT(S):

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 an appropriate writ, order or direction, more particularly in the nature of Mandamus, declaring that the proceedings initiated by the impugned Show Cause Notice dated 25.11.2024 bearing DIN 20241155YK000000AD51 are void ab initio, having been issued in contravention of Rule 142(1A) of the CGST Rules, 2017, uploaded in a manner constituting constructive non-service, and not affording any opportunity of personal hearing in breach of Section 75(4) of the Act and consequently quash the Order-in-Original dated 25.02.2025 bearing DIN 20250255YK000000CA2C issued by Respondent No.2 in Form GST DRC-07 under Section 73 of the CGST Act, 2017, as being without jurisdiction and barred by limitation under Section 73(10) and pass such other or further orders as this Honble Court may deem fit, just and proper in the interest of justice, equity, and good conscience. Main Prayer was amended as per c.o.dt.18.09.2025 Vide I.A.No.2 of 2025 in W.P.No.24140 of 2025.

IA NO: 1 OF 2025

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 stay all further proceedings pursuant to the Order-in-Original dated 25.02.2025 bearing DIN 20250255YK000000CA2C issued by Respondent No. 2 in Form GST DRC-07, including any recovery proceedings, garnishee orders, or coercive actions, and pass

IA NO: 2 OF 2025

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 issue an appropriate writ, order or direction, more particularly in the nature of Certiorari or Mandamus, declaring that the proceedings initiated by the impugned Show Cause Notice dated 25.11.2024 bearing DIN 20241155YK000000AD51 are void ab initio, having been issued in contravention of Rule 142(1 A) of the COST Rules, 2017, uploaded in a manner constituting constructive non-service, and not affording any opportunity of personal hearing in breach of Section 75(4) of the Act; and consequently quash the Order-in-Original dated 25.02.2025 bearing DIN 20250255YK000000CA2C issued by Respondent No. 2 in Form GST DRC-07 under Section 73 of the CGST Act, 2017, as being without jurisdiction and barred by limitation under Section 73(10); further be pleased to declare Notification No. 56/2023-Central Tax dated 28.12.2023 as ultra vires to the extent it seeks to extend the limitation period under Section 73(10) in the absence of a valid force majeure and statutory authorisation; stay all

consequential recovery proceedings, and pass such other or further orders as this Hon'ble Court may deem fit, just and proper in the interest of justice, equity, and good conscience." As follows "In view of the facts and circumstances stated above, the Petitioner most respectfully prays that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction, more particularly in the nature of Mandamus, declaring that the proceedings initiated by the impugned Show Cause Notice dated 25.11.2024 bearing DIN 20241155YK000000AD51 are void ab initio, having been issued in contravention of Rule 142(1A) of the CGST Rules, 2017, uploaded in a manner constituting constructive non-service, and not affording any opportunity of personal hearing in breach of Section 75(4) of the Act; and consequently quash the Order-in-Original dated 25.02.2025 bearing DIN 20250255YK000000CA2C issued by Respondent No. 2 in Form GST DRC-07 under Section 73 of the CGST Act, 2017, as being without jurisdiction and barred by limitation under Section 73(10) and pass

Counsel for the Petitioner:

1.VADLAPATLA SAI MALLIK

Counsel for the Respondent(S):

1.B V S CHALAPATI RAO

2.

The Court made the following ORDER:

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

Heard Sri Vadlapatla Sai Mallik, learned counsel appearing for the petitioner and Sri B.V.S.Chalapathi Rao, learned Standing Counsel appearing for respondents.

2. The petitioner, who was served with a copy of the Order-in-Original No.70/2024-25-GST, dated 25.02.2025, under Section 73 of the CGST Act, has challenged the said order on the ground that it has been passed in contravention of Rule 142(1A) of the CGST Rules, 2017 inasmuch as no prior show-cause notice was served on the petitioner.

3. Sri B.V.S.Chalapathi Rao, learned Standing Counsel appearing for the respondents would contend that the petitioner had never raised any objection on the ground of non-service of a prior notice under Rule 142(1A) of the CGST Rules, 2017 and had, in fact, availed an opportunity of personal hearing, where further time is sought by the petitioner. Learned Standing Counsel would also contend that the petitioner has an equally efficacious alternative remedy of appeal, and therefore, the present writ petition is not maintainable before this Court.

4. In view of the consistent stand taken by this Court that non-issuance of notice under Rule 142(1A) of the CGST Rules, 2017, would vitiate the entire process of assessment, it would be appropriate to follow the consistent stand.

5. In the circumstances, this Writ Petition is allowed setting aside the Order-in-original No.70/2024-25-GST, dated 25.02.2025 and the matter is remanded back to the assessing authority to complete the assessment in accordance with law after issuance of necessary notice. The period from the date of the impugned order, till the date of receipt of this order shall be excluded for the purposes of limitation. There shall be no order as to costs

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

R. RAGHUNANDAN RAO, J

T.C.D. SEKHAR, J

Date: 08.10.2025
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THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO
THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 24140/2025

Date: 08.10.2025
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