

APHC010128092026



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

[3579]

WEDNESDAY, THE TWENTY NINETH DAY OF APRIL  
TWO THOUSAND AND TWENTY SIX

**PRESENT**

**HONOURABLE THE CHIEF JUSTICE LISA GILL**

**THE HONOURABLE SRI JUSTICE NINALA JAYASURYA**

**WRIT PETITION NO: 7160/2026**

**Between:**

1. KAMESWARI AGENCIES, 50-5013, GROUND FLOOR, GURUNANAK MARG, P T COLONY, SEETHAMMADHARA, VISAKHAPATNAM - 530 013, A.P. REPRESENTED BY ITS PROPRIETOR, K.KAMESWARI, W/O K. VENKATA RANGA RAO

**...PETITIONER**

**AND**

1. THE ASSISTANT COMMISSIONER, DWARAKANAGAR CIRCLE, VISAKHAPATNAM DIVISION-1, VISAKHAPATNAM. AP.

2. THE DEPUTY ASSISTANT COMMISSIONER ST, DWARAKANAGAR CIRCLE, VISAKHAPATNAM DIVISION-1, VISAKHAPATNAM. AP.

3. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY REVENUE (CT), SECRETARIAT, VELAGAPUDI, GUNTUR DISTRICT, A.P.-522238.

4. THE CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS, REP BY ITS CHAIRMAN, MINISTRY OF FINANCE DEPARTMENT OF REVENUE NORTH BLOCK, CENTRAL SECRETARIAT, NEW DELHI - 100 001.

5. UNION OF INDIA, REP. BY ITS SECRETARY (FINANCE), FINANCE DEPARTMENT, NORTH BLOCK, NEW DELHI-110001.

6. THE MANAGER, ICICI BANK LIMITED, D.NO. 47-14-18, INSAR

SATYA SRI COMPLEX, DWARAKANAGAR MAIN ROAD,  
VISAKHAPATNAM-530016.

7.THE BRANCH MANAGER, STATE BANK OF INDIA, 49-52-5, SRI  
KANYA TOWERS, SHANTIPURAM, SANKARMATHAM ROAD,  
VISAKHAPATNAM-530016.

**...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 a Writ of Mandamus or any other appropriate Writ, Order or Direction declaring A. The Notification No. 22/2024-Central Tax, dated 08.10.2024 and the consequent Board Circular No. 237/31/2024-GST dated 15.10.2024 to the extent of prescribing the time limit of 6 months restriction for filing the rectification application is ultra vires to the provisions of section 16(5) of the GST Act, 2017 and also in violation of Articles 14, 265, 246A and 19(1)(g) of the Constitution of India PARAGRAPH (A), WAS DELETED FROM THE MAIN PRAYER AS PER C.O.DT.28.4.2026 VIDE I.A.NO.4 OF 2026. B. the order under section 73, Summary of the Order in Form GST DRC-07, both dated 30.08.2024, and the Order dated 29.08.2024, passed by the 1ST Respondent, denying Input tax credit and demanding the same along with interest and penalty, for the tax period September 2019 to March 2020, under the provisions of the Goods Services Tax Act, 2017, as arbitrary, illegal, bad in law, violative of the principles of natural justice, apart from being violative of Articles 14, 19(1)(g), 21 and 265 of the Constitution of India, and to consequently set aside the same in the interests of justice. C. The notices issued in Form GST DRC-13 dated 02.05.2025 and 11.12.2025, (both served on 02,03,2026) to the 6TH and 7TH respondents respectively, bankers of the petitioner, by the 1ST and 2ND respondents as arbitrary, illegal, bad in law, violative of the principles of natural justice, and consequently set aside the same in the interests of justice. D. The Form GST DRC-16, Notice of attachment of immovable property, in Rc.No. 19/2026/ETA-3, dated 04.02.2026 as arbitrary, illegal, bad in law, violative of the principles of natural justice, and consequently set aside the same in the interests of justice, and pass

**IA NO: 1 OF 2026**

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, including recovery, pursuant to the

order under section 73 Summary of the Order in Form GST DRC-07, both dated 30.08.2024, and the Order dated 29.08.2024, passed by the 1ST Respondent, denying Input tax credit and demanding the same along with interest and penalty, for the tax period September 2019 to March 2020, under the provisions of the Goods & Services Tax Act, 2017, pending disposal of the Writ Petition; and pass

**IA NO: 2 OF 2026**

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 notices issued by the 1ST and 2ND respondents in Form GST DRC-13 dated 02.05.2025 and 11.12.2025 under section 79(1)(c) of the APGST Act, 2017, to the 6TH and 7TH respondents, pending disposal of the writ petition and pass

**IA NO: 3 OF 2026**

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 suspend the Notice in Form GST DRC-16, Notice of attachment of immovable property, in Rc.No. 19/2026/ETA-3, dated 04.02.2026 issued by the 2ND respondent, pending disposal of the writ petition and pass

**IA NO: 4 OF 2026**

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 amend the prayer by deleting that portion of the prayer in para 28(a) of the affidavit filed in support of the writ petition i.e., A. The Notification No. 22/2024-Central Tax, dated 08.10.2024 and the consequent Board Circular No. 237/31/2024-GST dated 15.10.2024 to the extent of prescribing the time limit of 6 months restriction for filing the rectification application is ultra vires to the provisions of section 16(5) of the GST Act, 2017 and also in violation of Articles 14, 265, 246A and 19(1)(g) of the Constitution of India and pass

**Counsel for the Petitioner:**

1. SINGAM SRINIVASA RAO

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

1. GP FOR COMMERCIAL TAX

**The Court made the following order:**

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

The petitioner is a registered person under the G.S.T Act. In the course of the filing of returns etc., the petitioner sought entitlement of input tax credit for the period from 01.04.2019 to 31.03.2020, by filing claims in the following manner:

Sl. No.	Tax Period	Filed Date
1	9/2019	26.10.2020
2	10/2019	26.10.2020
3	11/2019	26.10.2020
4	12/2019	26.10.2020
5	1/2020	26.10.2020
6	2/2020	26.10.2020
7	3/2020	27.10.2020

2. These claims were rejected by the 1<sup>st</sup> respondent, by way of an Order dated 29.08.2024 and 30.08.2024. It is the contention of the first respondent that the period granted for making such claim, under Section 16(4) of the GST Act expired on 25.10.2020 and since all the claims were filed beyond 25.10.2020, the petitioner was not eligible for such a claim.

3. Agreed by this order of rejection, the petitioner has approached this Court, by way of the present Writ Petition.

4. Learned counsel for the petitioner would submit that Section 16 (5), which was incorporated with effect from 01.07.2017 extended the said period up to 30.11.2021 and as such, the rejection of the claim of the petitioner is unwarranted and is in violation of Section 16(5) of the GST Act.

5. Section 16(5) of the GST Act reads as follows:

Section 16 (5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed up to the thirtieth day of November, 2021.

6. The petitioner had raised a claim for Input tax credit for the period 2019-2020. The said period is covered under Section 16(5), extracted above. Therefore, the petitioner had an extended time, up to 30.11.2021, to file the claims. As these claims were filed in the last week of October 2020, the said claims of the petitioner cannot be rejected on the ground of delayed filing.

7. Accordingly, this Writ Petition is allowed, setting aside the order in Form GST DRC-07 dated 30.08.2024 and the order dated 29.08.2024, and the matter is amended back to the 1<sup>st</sup> respondent to take an appropriate decision, in terms of the guidelines set out above by this court. There shall be no order as to costs.

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

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**R. RAGHUNANDAN RAO, J**

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**T.C.D. SEKHAR, J**

RJS

**THE HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**  
**&**  
**THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR**

**WRIT PETITION No: 7160 of 2026**

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

**29.04.2026**

**RJS**

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