APHC010561572025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3529]**
(Special Original Jurisdiction)

WEDNESDAY,THE SEVENTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 31263/2025

Between:

1. GANAPATI ISPAT, A PROPRIETARY CONCERN, WITH PRINCIPAL PLACE OF BUSINESS AT RS NO - 142/1, DONKA ROAD, SURAMPALLE, KRISHNA DISTRICT, ANDHRA PRADESH - 521 212, A REGISTERED TAXPAYER BEARING GSTIN 37DWOPK3201C1ZT, REPRESENTED BY ITS PROPRIETOR SRI KOTA PRUDHVI VENKATA TEJA.

...PETITIONER

AND

1. UNION OF INDIA, REP. BY ITS SECRETARY, MINISTRY OF FINANCE, DEPARTMENT OF REVENUE, NORTH BLOCK, NEW DELHI -110001
2. THE ASSISTANT COMMISSIONER CENTRAL TAX, OFFICE OF THE COMMISSIONER CENTRAL TAX, GST BHAVAN, AMARAVATHI CGST DIVISION, CENTRAL REVENUE BUILDING, KANNAVARI THOTA, GUNTUR - 522 004.
3. THE ADDITIONAL COMMISSIONER CENTRAL TAX, OFFICE OF THE COMMISSIONER CENTRAL TAX, GST BHAVAN, CENTRAL REVENUE BUILDING, KANNAVARI THOTA, GUNTUR - 522 004.
4. THE SUPERINTENDENT OF CENTRAL TAX, BHAVANIPURAM RANGE, AMARAVATHI RANGE, VIJAYAWADA - 520 012.

5. THE ASSISTANT COMMISSIONER CENTRAL TAX AE, OFFICE OF THE COMMISSIONER CENTRAL TAX, GST BHAVAN, CENTRAL REVENUE BUILDING, KANNAVARLTHOTA, GUNTUR - 522 004. -

...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 topleased to issue a Writ of Mandamus or any other appropriate Writ, Order or Direction declaring that the action of Respondents is illegal, arbitrary and without jurisdiction and so quash the impugned Show Cause Notice dated 01.09.2025 bearing DIN 20250955YK000000C201 issued under Sections 122(ii)/(vii) read with Circular No. 171/03/2022-GST, as being without jurisdiction and contrary to the CGST/APGST Act as Circular No. 171/03/2022-GST as inapplicable to the Petitioners tax-paid, related-party transactions with no fraudulent ITC/refund and to refrain from invoking Sections 122(ii)/(vii) in such facts and hold that, assuming without admitting any contravention, only Section 125 (general penalty) could apply, and that invocation of Section 122(ii)/(vii) is ultra vires to declare the SCN void ab initio for non-issuance of DRC-01A, improper service under Section 169, and clubbing of multiple financial years without year-wise quantification/limitation, being violations of mandatory procedure and natural justice and pass

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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 prayed that this Honble Court pending disposal of the writ, I humbly pray that this Honble Court Pending disposal of the writ, it is further prayed to stay all further proceedings and coercive measures pursuant to the impugned SCN; and pass such other order(s) as this Honble Court may deem fit in the interests of justice and equity.

Counsel for the Petitioner:

1. VADLAPATLA SAI MALLIK

Counsel for the Respondent(S):

1. D NAGARAJA KUMARI

2.

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

Heard Sri V. Sai Mallik, learned counsel appearing for the petitioner and Smt. D. Naga raja Kumari, learned counsel appearing for the respondents.

2. The petitioner was served with a show cause notice on 01.09.22025, by the 3rd respondent, under Section 122 of the GSGST Act, calling upon the petitioner to show cause why certain penalties under Section 122 of the CGST Act should not be levied on the petitioner. This show cause notice is said to have been issued on the ground that the information gathered by the Central Intelligence Unit, CCO, Visakhapatnam had revealed that there were various instances of circular trading etc., which would attract penalties under Section 122 of the GST Act.

3. The petitioner being aggrieved by the said notice, has approached this Court, by way of the present Writ Petition.

4. The contention of the petitioner is that Section 122 of the CGST Act does not confer power on any authority or officer to initiate or conduct proceedings under the Section. Apart from this, it is contended that no proceedings can be initiated under the provisions as there is no provision, for hearing to be given, to the registered person against whom such proceedings are sought to be initiated and that there is no period of limitation set out in the said provision.

5. Smt. D. Naga Raja Kumari, the learned Standing Counsel, on the other hand, would contend that the Notification, dated 19.06.2017, bearing Notification No.2/2017-Central Tax,issued by the Government of India as well as the subsequent notification of the Central Government, dated 27.10.2025, in Circular No.254/11/2025-GST would squarely answer the contention raised by the petitioner. The learned Standing Counsel would contend that Notification No.2 of 2017 issued in exercise of powers under Section 3 read with Section 5 of the GST Act and Section 3 of the IGST Act had empowered various officers, enumerated in the notification, with all the powers under the Act and the rules made thereunder and set out the territorial jurisdiction of each of the said officers. She would further submit that the subsequent circular of 27.10.2025 clearly empowers the concerned Deputy Commissioner or Assistant Commissioner to exercise functions under Section 122 of the CGST Act. Section 5 further states that a superior officer is empowered to exercise any jurisdiction which is vested in a subordinate officer.

6. The circular of 27.10.2025 clearly empowers the Assistant Commissioner of Central tax to exercise powers under Section 122 of the CGST Act. The only issue left before this Court is whether the initial notification 2 of 2017 confers such power on any authority. The said notification reads as follows:

> "and the Central Tax Officers subordinate to them as Central Tax Officers and authorized them with all the powers under

both the said acts and the rules made thereunder with respect to the jurisdiction specified in the tables given below”.

7. To the mind of this Court, this conferment of power can be taken to mean that the notification was not conferring any further power, but was only fixing the territorial jurisdiction of the officers in respect of the powers which are conferred on them by virtue of the act itself. In such circumstances, it may not be permissible to hold that authority had been granted, to all the officers enumerated in the list, in the said notification, with all the powers under the entire act including Section 122 of the CGST Act.

8. This Court does not propose to go into the question, of whether jurisdiction was conferred on all officers under the notification No.2/2017, as the simplest way of resolving this dispute would be to set aside the show cause notice, dated 01.09.2025, and leaving it open to the 3rd respondent to initiate fresh action under Section 122 of the CGST Act by issuing a fresh show cause notice.

9. As far as the question of whether Section 122 of the CGST Act can be enforced and whether necessary safeguards are available is concerned, the same falls outside the scope of the present Writ Petition inasmuch as the question before this Court was only on the jurisdiction of the 3rd respondent in issuing the notice under Section 122 of the CGST Act. These issues are left open.

10. Accordingly, this Writ Petition is disposed of by setting aside the show cause notice, dated 01.09.2025,with liberty to the 3rd respondent to issue a fresh show cause notice under Section 122 of the CGST Act. There shall be no order as to costs.

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

R. RAGHUNANDAN RAO, J

T.C.D. SEKHAR, J

RJS

THE HON'ABLE SRI JUSTICE R RAGHUNANDAN RAO

AND

THE HON'BLE SRI JUSTICE T.C.D. SEKHAR

<u>WRIT PETITION No: 31263 of 2025</u>

(per Hon'ble Sri Justice R Raghunandan Rao)

17.12.2025

RJS