APHC010604702025

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

WEDNESDAY,THE TWENTY SIXTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NOs: 31323, 31324 & 31330 of 2025

Between:

1. INDUBAALA ENTERPRISES LLP, REPRESENTED BY ITS DESIGNATED PARTNER, SHRI VENKATANARAHAR RAO JAIGIRI, 51/6/19,51/10/1/4, 134/ID, P.P.ROAD, PALAKOL, WEST GODAVARI DIST., ANDHRA PRADESH - 534 260.

...PETITIONER

AND

1. THE DEPUTY COMMISSIONER, SPECIAL CIRCLE, ELURU DIVISION, O/O JC(ST), D.NO 25-12-6, 3RD FLOOR, USHA BALA COMPLEX, JOHN STREET, NARASIMHARAOPET, ELURU, ANDHRA PRADESH - 534 006.
2. THE DEPUTY ASSISTANT COMMISSIONER ST, SPECIAL CIRCLE, ELURU DIVISION, O/O JC(ST), D.NO 25-12-6, 3RD FLOOR, USHA BALA COMPLEX, JOHN STREET, NARASIMHARAOPET, ELURU, ANDHRA PRADESH - 534 006
3. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PRINCIPAL SECRETARY, REVENUE DEPARTMENT (COMMERCIAL TAX), A.P. SECRETARIAT, VELEGAPUDI.
4. UNION OF INDIA, DEPARTMENT OF REVENUE, REPRESENTED BY ITS SECRETARY (REVENUE) NORTH BLOCK, NEW DELHI.

...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 writ, direction or order quashing the proceedings of the 1 Respondent in Best Judgment Assessment Order passed in Form GST ASMT-13 dated 17.08.2024 along with Form GST DRC 07 vide Ref No. ZD370824012680G dated 17.08.2024 for the month of June 2024 (Annexure P-1) levying GST of Rs. 4,09,448/- (CGST- Rs. 2,04,724/- and SGST- Rs. 2,04,724/-) along with interest under Section 50 and 100 PERCENT Penalty under Section 74 of GST Act, 2017, as the GST Return GSTR-3B for the subject period was filed subsequently, paid the taxes along with late fee and the impugned order imposed the GST on notional turnover without providing the opportunity of personal hearing AND in contravention of the Circular No. 06/2020 (State) dated 10.01.2020 issued by the Government of Andhra Pradesh as being arbitrary, without jurisdiction, without DIN, non-application of mind, unconstitutional, unreasonable and against the principles of natural justice and contrary to the provisions of the GST Act, 2017 and the rules made thereunder. b. And to 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 pleased stay the operation of the proceedings of the 1st Respondent in Best Judgment Assessment Order passed in Form GST ASMT-13 dated 17.08.2024 along with Form GST DRC 07 vide Ref No. ZD370824012680G dated 17.08.2024 for the month of June 2024 (Annexure P-1), in the interest of justice and pass

Counsel for the Petitioner:

1. ANIL KUMAR BEZAWADA

Counsel for the Respondent(S):

1. GP FOR COMMERCIAL TAX

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

As all three Writ Petitions arise out of similar facts and have been filed by the same petitioner, they are being disposed of by way of this common order.

2. Heard Sri Anil Kumar Bezawada, learned counsel for the petitioner and the learned Government Pleader for Commercial Taxes, appearing for the respondents.

3. The petitioner was assessed, under the GST Act, for the period June, 2024 onwards, an assessment order, dated 17.08.2024; for the period April- 2024 by an assessment order, dated 12.07.2024 and for the period May- 2024, by way of an assessment order, dated 12.07.2024. All these orders of assessment were passed under Section 62 of the GST Act, on the ground that the petitioner had not filed returns for the said periods.

4. Thereafter, steps have been initiated for recovery of the amounts assessed under the said orders, along with interest and penalty, under Section 64 of the GST Act, by way of recovery proceedings.

5. At that stage, the petitioner had filed these three Writ Petitions challenging the aforesaid impugned orders of assessment. The petitioner contends that the orders passed under Section 62 of the GST Act, would be deemed to have been withdrawn, upon the dealer filing returns within a period of 120 days along payment of the tax declared under the returns and the

dealer is also given an additional facility of filing the returns even beyond the said period of payment of late fee prescribed under the Act and Rules.

6. The petitioner contends that the necessary returns, namely GSTR-3B were filed along with payment of late fee and the said order of assessment would have to be deemed to have withdrawn. The details of such filing are as below:

W.P.No.	Period of Assessment	Date of Assessment order	Date of filing of GSTR-3B
31323	June-2024	17.08.2024	07.01.2025
31324	April-2024	12.07.2024	31.12.2024
31330	May-2024	12.07.2024	03.01.2025

7. In similar circumstances, a Division Bench of this Court in **Brothers Engineering and Errectors Ltd., vs. State of Andhra Pradesh**[1]., had following earlier judgments of the Hon'ble High Court of Madras in **Helmet House vs. Deputy State Tax Officer-1, Madurai.,**[2] had held that the orders of assessment would have to be deemed to have been withdrawn once returns had been filed, within the prescribed time or beyond prescribed time along with payment of late fee.

8. In the present case, the said judgment would apply.

9. Accordingly, these Writ Petitions are allowed declaring that the orders of assessment dated 17.08.2024, 12.07.2024 and 12.07.2024, passed

[1] **(2025) 34 Centax 39 (A.P)**
[2] **(2024) 23 Centax 57 (Mad.)**

under Section 62 of the GST Act, are deemed to have been withdrawn and no steps for recovery can be initiated or continued for recovery of the taxes and dues raised under the aforesaid orders of assessment. 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 NOs: 31323, 31324 & 31330 of 2025</u>

(per Hon'ble Sri Justice R Raghunandan Rao)

26.11.2025

RJS