

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

(Special Original Jurisdiction)

MONDAY, THE FIFTH DAY OF AUGUST

TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

AND

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION Nos.13043, 13046 & 14904 OF 2024

WRIT PETITION NO: 13043 OF 2024

Between:

M/s. Subodh Enterprises, Having its office address at D.No. 31-1-1, Survey No. 105/67 and 105/13-14, Kurmannapalem, Visakhapatnam, Andhra Pradesh - 530 046 Rep. by its sole proprietor through Power of attorney holder Mr. Raj Kumar Acharya

...PETITIONER

AND

1. The Union of India, through the Secretary Ministry of Finance, Department of Revenue, North Block, New Delhi 110 001.
2. Central Board of Indirect Taxes and Customs, through the Chairman, Ministry of Finance, Department of Revenue North Block, New Delhi- 110001
3. Commissioner (Appeals), Office of the Commissioner (Appels), Central Tax and Custom Duty Commissionerate, 4th floor, Custom House, Port Area, Visakhapatnam, - 530 035.
4. Joint Commissioner (Central Tax), Office of the Principal Commissioner of Central Tax, Visakhapatnam Central GST Commissionerate, GST Bhavan, Port Area, Visakhapatnam - 530 035
5. Joint Director, Directorate General of GST Intelligence, Visakhapatnam Zonal Unit, Door No. 28-14-17, Suryabagh, Beside Melody Theatre, Visakhapatnam - 530 020

...RESPONDENTS

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, Direction or Order, particularly in the nature of Mandamus and (a) Declare the Impugned Order dated 16.01.2024 passed by the Appellate Authority Order in Original dated 23.05.2023 passed by the Adjudicating Authority and the Show Cause dated 29.11.2021 as arbitrary, illegal, unconstitutional, contrary to the settled principles of law and consequently set aside Impugned Order dated 16.01.2024 passed by the Appellate Authority Order in Original dated 23.05.2023 passed by the Adjudicating Authority and the Show Cause dated 29.11.2021 (b) Declare that Circular No. 80/54/2018-GST dated 31.12.2018 as bad in law to the extent it provides clarification on classification of wood logs under Chapter Heading 4403 or alternatively declare that the application of the Circular is prospective (c) Direct the Respondents to quash the demand of differential tax raised on the Petitioner by Impugned Order dated 16.01.2024 and Order in Original dated 23.05.2023 on the basis that supply of wood log for pulping by the Petitioner for the past period is classifiable under Chapter Heading 4403 and not under 4401 as adopted by the Petitioner.

IA NO: 1 OF 2024

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 Impugned Order dated 16.01.2024 including initiation of any coercive actions against the Petitioner for recovery and enforcement of impugned demand.

Counsel for the Petitioner: SRI D. S. SIVADARSHAN

**Counsel for the Respondent No.1: SRI Y.N. VIVEKANANDA (CENTRAL
GOVT COUNSEL)**

**Counsel for the Respondent Nos.2 to 5: SRI SANTHI CHANDRA, SC FOR
CBCI**

Counsel for the Respondents: SRI O. UDAYA KUMAR (CENTRAL GOVT
COUNSEL)

WRIT PETITION NO: 13046 OF 2024

Between:

M/s. Subodh Enterprises, , Having its office address at D.No. 31-1-1,
Survey No. 105/67 and 105/13-14, Kurmannapalem, Visakhapatnam,
Andhra Pradesh - 530 046 Rep. by its sole proprietor through Power of
attorney holder Mr. Raj Kumar Acharya

...PETITIONER(S)

AND

1. The Union of India, through the Secretary Ministry of Finance,
Department of Revenue, North Block, New Delhi 110 001.
2. Central Board of Indirect Taxes and Customs through the Chairman,,
Ministry of Finance Department of Revenue North Block, New Delhi-
110001
3. Commissioner (Appeals), Office of the Commissioner (Appels), Central
Tax and Custom Duty Commissionerate, 4th floor. Custom House, Port
Area, Visakhapatnam, - 530 035.
4. Joint Commissioner (Central Tax), Office of the Principal Commissioner
of Central Tax, Visakhapatnam Central GST Commissionerate, GST
Bhavan, Port Area, Visakhapatnam - 530 035
5. Joint Director, Directorate General of GST Intelligence, Visakhapatnam
Zonal Unit, Door No. 28-14-17, Suryabagh, Beside Melody Theatre,
Visakhapatnam - 530 020

...RESPONDENTS

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be pleased to issue an appropriate Writ, Direction or Order, particularly in
the nature of Mandamus and (a) Declare the Impugned Order dated
16.01.2024 passed by the Appellate Authority Order in Original dated

23.05.2023 passed by the Adjudicating Authority and the Show Cause dated 29.11.2021 as arbitrary, illegal, unconstitutional, contrary to the settled principles of law and consequently set aside Impugned Order dated 16.01.2024 passed by the Appellate Authority Order in Original dated 23.05.2023 passed by the Adjudicating Authority and the Show Cause dated 29.11.2021 (b) Declare that Circular No. 80/54/2018-GST dated 31.12.2018 as bad in law to the extent it provides clarification on classification of wood logs under Chapter Heading 4403 or alternatively declare that the application of the Circular is prospective S (c) Direct the Respondents to quash the demand of differential tax raised on the Petitioner by Impugned Order dated 16.01.2024 and Order in Original dated 23.05.2023 on the basis that supply of wood log for pulping by the Petitioner for the past period is classifiable under Chapter Heading 4403 and not under 4401 as adopted by the Petitioner.

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Counsel for the Petitioner: SRI D. S. SIVADARSHAN

**Counsel for the Respondent No.1: SRI Y.N. VIVEKANANDA (CENTRAL
GOVT COUNSEL)**

**Counsel for the Respondent Nos.2 to 5: SRI SANTHI CHANDRA, SC FOR
CBCI**

**Counsel for the Respondents: SRI O. UDAYA KUMAR (CENTRAL GOVT
COUNSEL)**

WRIT PETITION NO: 14904 OF 2024**Between:**

Andhra Pradesh Township And Infrastructure Development Corporation Limited, 4th Floor, NTR Administrative Block, RTC House, PN Bus Station, Vijayawada, Krishna Dist- 520002 Represented by its Chief Accounts Officer, Mr. Battala Haranath Babu, S/o. Battala Subbanna, R/o. 59-8-7/2, 2nd Floor, Vahini Apartment, Gayathri Nagar, Vijayawada (Urban), Krishna, Andhra Pradesh- 520008.

...PETITIONER**AND**

1. Commissioner of Central Tax And Customs, (GST- Appeals) D. No. 3-30-15, Ring Road, Guntur- 522006
2. Additional Commissioner (CCO), O/o. Chief Commissioner, Customs and Central Tax Visakhapatnam Zone, 1st Floor, GST Bhavan, Port Area Visakhapatnam- 530035
3. Union of India, Ministry of Finance, Represented by its Secretary, North Block, New Delhi-110 001

...RESPONDENTS

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, order, or direction more particularly one in the nature of a Writ of Mandamus directing Respondent No. 1 to provide a certified English translated copy of the Order- in-Appeal vide Ref No. GUN-GST-OOO-APP-019-2023-24 (COMMISSIONER) dated 06.02.2024 in respect of the Appeal filed by the Petitioner vide Appeal No. 20/2023-(G) GST (COMMR).

Counsel for the Petitioner: SRI PASUPULETI VENKATA PRASAD

Counsel for the Respondent Nos.1 & 2: SRI SANTHI CHANDRA, SC FOR
CBCI

Counsel for the Respondent No.3: SRI Y. N. VIVEKANANDA (CENTRAL
GOVT. COUNSEL)

The Court made the following: COMMON ORDER

APHC010261312024



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

[3488]

MONDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION NOS: 13043, 13046 & 14904/2024

W.P.No.13043/2024

Between:

M/s Subodh Enterprises

...PETITIONER

AND

The Union Of India and Others

...RESPONDENT(S)

WRIT PETITION NO: 13046/2024

Between:

M/s. Subodh Enterprises

...PETITIONER

AND

The Union Of India and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.D S SIVADARSHAN

Counsel for the Respondent(S):

1.O UDAYA KUMAR (CENTRAL GOVT COUNSEL)

2.Y N VIVEKANANDA

WRIT PETITION NO: 14904/2024**Between:**

Andhra Pradesh Township And Infrastructure Development Corporation Limited ...**PETITIONER**

AND

Commissioner Of Central Tax And Customs and Others ...**RESPONDENT(S)**

Counsel for the Petitioner:

1.PASUPULETI VENKATA PRASAD

Counsel for the Respondent(S):

1.SANTHI CHANDRA (Sr. Standing Counsel for CBIC)

2.O UDAYA KUMAR (CENTRAL GOVT COUNSEL)

3.Y N VIVEKANANDA

The Court made the following Common Judgment:

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

Heard Sri D.S.S. Siva Darshan, learned counsel appearing for the petitioners in W.P.No.13043 and 13046 of 2024, Sri P. Venkata Prasad, learned counsel appearing for the petitioner in W.P.No.14904 of 2024, Sri O. Uday Kumar, learned counsel appearing for the 1st respondent, Sri Y.N. Vivekananda, learned counsel appearing for the other official respondents, and the appellate authority, who is arrayed as the 3rd respondent in W.P.No.13043 and 13046 of 2024, appearing in person.

2. As all the three writ petitions arise out of a common issue they are being disposed of by way of this common order.

3. At the outset, it may be stated that this judgment is not on the merits of any of the three cases and is only dealing with the question of whether the appellate order under Section 107 of the CGST Act, 2017 can be issued, in the State of Andhra Pradesh, in Hindi only.

4. In all these three cases, the petitioners had approached the Commissioner (Appeals) under Section 107 of the CGST Act for redressing their grievances. The Commissioner (Appeals), in these three cases, passed orders, whose details are given below:

Writ Petition No.	Proceedings No.	Date of Order
W.P.No.13043/2024	VIZ-GST—001-APP-005-2023-24	16.01.2024
W.P.No.13046/2024	VIZ-GST—001-APP-005-2023-24	16.01.2024
W.P.No.14904/2024	GUN-GST-000-APP-019-2023-24	06.02.2024

5. The Commissioner (Appeals), after hearing the parties in these appeals, had passed hand written orders in Hindi. As the petitioners are not conversant with the said language, they had sought copies of the said order in English. However, such copies, in English, were not furnished to the petitioners. Aggrieved, by non-supply of copies of the orders in English, and on various other grounds raised by them, the petitioners have approached this Court by way of the present writ petitions.

6. The Commissioner (Appeals), apart from being represented by Sri Y.N. Vivekananda, learned counsel, had also appeared in person and made his presentation in person apart from filing counter affidavits in these three cases.

7. The case of the Commissioner (Appeals), for passing the orders in Hindi alone, is as follows:

a) Article 348 of the Constitution of India, which stipulates that orders, Rules, Regulations and Bye-laws would be in English, would not be applicable to adjudicatory orders and they can be furnished in Hindi.

b) The report of the Law Commission of India (Report No.216, December 2008) at page 36 mentions that nothing prevents a Government Officer from passing orders in Hindi, as these orders can be challenged in the High Courts and Supreme Courts by producing English translations of the said orders.

c) Article 343 of the Constitution of India states that "Hindi in Devanagari Script" with international form of Indian Numerals is the official language of Union of India and the status of "English" is that of an associate language.

d) Article 344 of the Constitution of India provides that for the Constitution of an Official Languages Commission, whose recommendations

are to be placed before the President for progressive introduction of Hindi for official purposes.

e) The Presidential Order, dated 02.07.2008, had accepted, one such recommendation of the Official Languages Commission, requiring 20% of the work to be carried out in Hindi, in regions categorised as "C" region. Since Andhra Pradesh falls in "C" region, all the officers, including the Commissioner (Appeals), are required to carry out 20% of their work in Hindi and consequently, orders are being passed by the Commissioner (Appeals) in Hindi.

f) The Commissioner (Appeals) also states that the total number of appeal Orders issued by him, from 21.06.2023, is 619, in which 506 are in English language and only 113 are in Hindi language.

g) The Commissioner (Appeals) also relies upon the judgments of the Hon'ble Supreme Court in the cases of **Murasoli Maran vs. Union of India**¹ and **M.N. Ravichandran vs. Union of India**² to contend that the Hon'ble Supreme Court had directed that Hindi is to be spread and there should be progressive increase in the use of Hindi language in central offices.

h) The Commissioner (Appeals), apart from the above contentions, also contends that there is no provision under the CGST Act or any other Act,

¹(1977) 2 SCC 416

²(1988) 1 MLJ 97

which directs that orders should be passed in English only and that orders cannot be passed in Hindi.

8. Article 344 of the Constitution of India provides for constitution of a Commission for making recommendations in relation to the progressive use of Hindi language in the official offices of the Union and to make recommendations to the President in this regard. Apart from this, a Committee consisting of Members of Parliament is to be constituted for the purpose of examining the recommendations of the Commission and to report their opinion on these recommendations, to the Hon'ble President. It may also be noted that, the Commission is to make its recommendations having due regard to the just claims and interests of persons belonging to non-Hindi speaking areas in regard to the public services.

9. A Committee was appointed under Clause 4 of Article 344 to examine the recommendations of the Commission constituted under Article 344 in relation to a complete changeover to Hindi by 26.01.1965. This Committee, after considering the views expressed by various persons, had expressed its opinion that complete changeover to Hindi, by 26.01.1965 was not practicable and that a provision should be made, in pursuance of Article 344 (4) of the Constitution, for continued use of English, even after 1965 for the purposes to be specified by the Parliament, by law, as long as may be necessary. This approach was accepted by the Government and the Official Language Act, 1963 (hereinafter referred to as 'the Act') was enacted.

10. Section 3 of the Act states that notwithstanding the expiry of the period of 15 years from the commencement of the Constitution, English language shall continue to be used in addition to Hindi. Section 3(3) of the Act specifically stipulates as follows:

3) Notwithstanding anything contained in sub-section (1), both Hindi and the English language shall be used for—

(i) resolutions, general orders, rules, notifications, administrative or other reports or press communiques issued or made by the Central Government or by a Ministry, Department or office thereof or by a corporation or company owned or controlled by the Central Government or by any office of such corporation or company;

(ii) administrative and other reports and official papers laid before a House or the Houses of Parliament;

(iii) contracts and agreements executed, and licenses, permits, notices and forms of tender issued, by or on behalf of the Central Government or any Ministry, Department or office thereof or by a corporation or company owned or controlled by the Central Government or by any office of such corporation or company.

11. The Central Government, under Section 8 of the Act, had made Rules known as the Official Language (Use for Official Purposes of the Union) Rules, 1976 (for short the 'Rules'). Rule 6 of the Rules states that both Hindi and English shall be used for all documents referred to in Section 3(3) of the Act and it shall be the responsibility of the persons signing such documents to

ensure that such documents are made, executed or issued both in Hindi and in English.

12. Apart from this, Rule 3(3) of the Rules stipulates that communications from a Central Government Office to a State or Union territory in region "C" or to any office (not being a Central Government office) or person in such State shall be in English.

13. A reading of these provisions would make it clear that any communications of a Central Government office requires to be in both Hindi and English normally. However, any communication from a Central Government office to any person in region "C" shall be in English.


14. The aforesaid provisions offer clear guidelines to officers working in Central Government offices, in region "C" (within which the State of Andhra Pradesh is situated) that all communications to persons residing in such a region, should normally be in English. However, such communication can also be sent both in English and Hindi. This would require, the Commissioner (Appeals), to either serve a copy of the order passed by him in English, or to serve copies of the orders passed by him in both Hindi and English. In the circumstances, service of the order passed by the Commissioner (Appeals) only in Hindi language is not permissible.

15. Accordingly, these writ petitions are disposed of with a direction to the Commissioner (Appeals), (respondent No.3 in W.P.Nos.13043 and 13046 of 2024 and respondent No.1 in W.P.No.14904 of 2024) to furnish

copies of the orders passed by him in these three writ petitions, in English, to the petitioners, within three weeks from the date of receipt of a copy of this order. It is further directed that the orders passed by the Commissioner (Appeals) would not come into effect until English copies of the said orders are served on the petitioners and the limitation for the petitioners to take steps against such orders would commence only when the copies of such orders, in English, are served on the petitioners. Upon such service, it would be open to the petitioners to take such steps as they may deem appropriate, including approaching this Court by way of fresh writ petitions, against the orders passed by the Commissioner (Appeals). There shall be no order as to costs.

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

//TRUE COPY//

SD/- K.J. RAJA BABU
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Secretary, Ministry of Finance, Union of India, North Block, New Delhi 110 001.
2. The Chairman, Central Board of Indirect Taxes and Customs, Ministry of Finance, North Block, New Delhi-110001
3. The Commissioner (Appeals), Office of the Commissioner (Appels), Central Tax and Custom Duty Commissionerate, 4th floor, Custom House, Port Area, Visakhapatnam, - 530 035.
4. The Joint Commissioner (Central Tax), Office of the Principal Commissioner of Central Tax, Visakhapatnam Central GST Commissionerate, GST Bhavan, Port Area, Visakhapatnam - 530 035
5. The Joint Director, Directorate General of GST Intelligence, Visakhapatnam Zonal Unit, Door No. 28-14-17, Suryabagh, Beside Melody Theatre, Visakhapatnam - 530 020

6. One CC to Sri D. S. Sivadarshan, Advocate [OPUC] ✓
7. One CC to Sri Y.N. Vivekananda(Central Govt. Counsel) [OPUC]
8. One CC to Sri O. Udaya Kumar (Central Govt. Counsel) [OPUC] ✓
9. One CC to Sri Santhi Chandra, SC for C.B.I.C[OPUC] ✓
10. One CC to Sri Pasupuleti Venkata Prasad, Advocate[OPUC] ✓
11. Three CD Copies.

ssb

HIGH COURT

DATED:05/08/2024



COMMON ORDER

WP.Nos.13043, 13046 and 14904 of 2024

DISPOSING OF THE WRIT PETITIONS
WITHOUT COSTS