

APHC010117792025



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

[3529]

WEDNESDAY, THE TWENTY FOURTH 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: 6029/2025

Between:

- 1.BARATAM SATISH, S/O. LATE KAMESWARA RAO BARATAM (NOW DECEASED), R/O. H.NO.8-2-42A,CHOWKABAZAR, SRIKAKULAM - 532 001.

...PETITIONER

AND

- 1.THE JOINT COMMISSIONER OF CENTRAL TAX, VIZIANAGARAM CENTRAL GST DIVISION, VIZIANAGARAM.
- 2.THE SUPERINTENDENT OF CENTRAL TAX, SRIKAKULAM WEST RANGE, SRIKAKULAM.
- 3.THE PRINCIPAL CHIEF COMMISSIONER OF CENTRAL TAX, VISAKHAPATNAM COMMISSIONERATE, CENTRAL EXCISE HOUSE, PORT AREA, VISAKHAPATNAM-5 3 0035.
- 4.THE PRINCIPAL CHIEF COMMISSIONER OF CENTRAL TAX, VISAKHAPATNAM COMMISSIONERATE, CENTRAL EXCISE HOUSE, PORT AREA, VISAKHAPATNAM-530035.
- 5.THE UNION OF INDIA, THROUGH THE REVENUE SECRETARY, DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, HAVING OFFICE AT 128-A, NORTH BLOCK, NEW DELHI-110 001

...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 Writ of Mandamus or any other appropriate Writ or Order or Direction declaring the action of the 1st Respondent in issuing the impugned show cause notice dated 16.08.2023 and passing the consequential impugned Order-in-Original, dated 25.01.2024 for the tax periods 07/2017 to 03/2018 under the Act, against the deceased person who passed away on 21.12.2021 as per the Death Certificate, dated 27.12.2021, as arbitrary, contrary to the provisions of the Act, without jurisdiction, and in violation of Principles of Natural Justice and consequently set-aside/quash the impugned Order-in-Original, dated 25.01.2024 passed by the 1st respondent, as null and void 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 to suspend the operation of the impugned Order-in-Original, dated 25.01.2024 passed by the V respondent against the deceased person/non-existent person for the tax periods 07/2017 to 03/2018 under the Act, and also stay of all other proceedings, as the petitioner is apprehending the initiation of coercive steps by the 1st and 2nd respondents pending disposal of the above Writ Petition,

Counsel for the Petitioner:

1.C SANJEEVA RAO

Counsel for the Respondent(S):

1.Y N VIVEKANANDA

The Court made the following Order: *(Per Hon'ble Sri Justice R. Raghunandan Rao)*

The petitioner is the son of Late B. Kameswara Rao, who was the registered person under the provisions of the Goods & Services Tax Act, 2017 [for short "the GST Act"]. He passed away on 21.12.2021. It is stated that the tax consultant was taking care of the affairs of B. Kameswara Rao, who had also expired on 04.03.2023. The petitioner further submits that the business of Late B. Kameswara Rao, under the name of M/s. Aravinda Enterprises had been closed on 20.02.2023 and the same was also approved by the registering authority on 21.04.2023.

2. At that stage, a show cause notice, dated 16.08.2023, was issued for the period July-2017 to March-2018 proposing to levy certain taxes under the CGST and the SGST Acts apart from interest and an amount of Rs.28,952/- as reverse charge mechanism. Thereafter, the assessment proceedings dated 25.01.2024 are said to have been passed.

3. The petitioner has approached this Court challenging the said order of assessment on the ground that it is not accord with the provisions of Section 93 of the GST Act.

4. Section 93(1) of the GST Act reads as follows:-

"Section-93:- Special provisions regarding liability to pay tax, interest or penalty in certain cases.

(1) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016 (31 of 2016), where a person, liable to pay tax, interest or penalty under this Act, dies, then---

(a) if a business carried on by the person is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay tax, interest or penalty due from such person under this Act; and

(b) if the business carried on by the person is discontinued, whether before or after his death, his legal representative shall be liable to pay, out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, interest or penalty due from such person under this Act, whether such tax, interest or penalty has been determined before his death but has remained unpaid or is determined after his death.

5. This provision does not deal with the manner in which the assessment proceedings relating to a death person should be carried out. This provision only provides for the method of recovery of taxes and other dues payable by a death person. Section 93(1)(A) of the GST Act provides for recovery of the taxes from the business of the death person if the same is being carried on by his legal representative or any other person. Section 93(1)(b) of the GST Act states that the dues of the death person can be recovered from the estate of the deceased if the business is discontinued. This provision essentially relates to recovery of tax and other amounts due against a death person. This provision does not deal with however assessment is to be carried out against a death person after he has passed away.

6. It is settled law that the assessments and other proceedings can only be initiated against the persons who are living and such proceedings against death person would not be valid. However, the fact remains that, under Section 93 of the GST Act, the dues of the death person can be recovered either from the business he had set up or from his estate. In such circumstances, in the absences of any provision, this Court would have to be hold that the only practicable way of settling the affairs of the death person

would be to direct the assessment being carried out by involving either the representative or person carrying on the business of a death person or which such business is not being carried on, by involving the legal representative who be holding the estate of the deceased person.

7. In the said circumstances, since the petitioner is the legal representative of the deceased person, being his son, it would be appropriate to set aside the impugned Order, dated 25.01.2024, with a direction to carry out a fresh assessment after involving the petitioner herein, by issuing a notice to the petitioner. Needless to say, any recovery that may be initiated, after an Order of assessment, shall be only against the estate of a deceased person and against the petitioner to the extent of the estate of his deceased father, which is available to the petitioner.

8. Accordingly, this Writ Petition is disposed of. There shall be no order as to costs.

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

R. RAGHUNANDAN RAO, J

T.C.D. SEKHAR, J

Date: 24.12.2025

BSM

THE HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

AND

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

WRIT PETITION No.6029 of 2025

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

24.12.2025

BSM