



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

[3529]

FRIDAY, THE TWENTY SIXTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 14874/2025

Between:

1.SAHITI AGENCIES, REPRESENTED BY THE PROPRIETRIX SMT.
CHALAVADI UMA DOOR NO12/17/21, ALLURIVARI STREET, RING
ROAD CENTER, REPALLE, GUNTUR ANDHRA PRADESH. PIN -
522265.

...PETITIONER

AND

1.THE ASSISTANT COMMISSIONER OF CENTRAL TAX AND
CENTRAL EXCISE, AMARAVATHI CGST DIVISIONAL OFFICE,
CENTRAL REVENUES BUILDING - M.G.ROAD, VIJAYAWADA - PIN
520 002.

2.UNION OF INDIA, REPRESENTED BY THE SECRETARY TO
GOVERNMENT OF INDIA MINISTRY OF FINANCE, REVENUE
DEPARTMENT, NORTH BLOCK, CENTRAL SECRETARIAT, NEW
DELHI-PIN-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 toPleased to issue an appropriate writ, order or direction, more in the nature of Writ of Mandamus, setting aside the impugned summary of the show-cause Notice in Form GST DRC-01 dated 01-08-2024, the claimed show-cause Notice dated 24-06-2024 issued under Section 74 of the GST

Acts by the Respondent No1 and the claimed orders issued under Section 74 of the CGST Acts, 2017 and the claimed 6 summaries of the orders in form GST DRC-07 and to pass

IA NO: 1 OF 2025

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 the collection of the of Rs.43,07,332, that disputed tax (COST of Rs.21,53,666 + SGST of Rs.21,53,666), the penalty of Rs.43,07,332 + Rs.50,000 (CGST of Rs.25,000 + SGST of Rs.25,000 and the disputed unquantified interest; and to pass

IA NO: 2 OF 2025

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 may be pleased to vacate the interim order dt. 25.06.2025 passed in IA No. 1 of 2025 in the instant Writ Petition No. 14874 of 2025 and to pass

Counsel for the Petitioner:

1.J.N VENKATA SURESH KUMAR

Counsel for the Respondent(S):

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

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

The petitioner herein is a registered person under the Goods & Services Tax Act, 2017 [for short "the GST Act"]. She was served with a show-cause notice, in Form GST DRC-01, under Section-74 of the GST Act, for the periods 2017-18 (from July,2017) to 2022-23 (to March,2023), calling upon her to show-cause why she should not be required to pay further tax of Rs.43,07,332/-. The 1st respondent, after affording a personal hearing had passed an Order-in-original, dated 09.01.2025 along with six summaries, in Form GST DRC-07, dated 17.01.2025. These Orders are challenged, by way of, the present Writ Petition.

2. Two primary grounds are raised against the impugned proceedings. Firstly, that the show-cause notice, in Form-GST DRC-01 and five summaries of the orders, in Form GST DRC-07, do not contain either the physical signatures or the digital signatures of the 1st respondent nor the digital signature certificate issued by the certified agency. Hence, these orders have no legal consequence and they are inoperable, in view of the Judgments of the Hon'ble Supreme Court of India, in the case of ***Kushalbhai Ratanbhai Rohit & Ors Vs. State of Gujarat***, in SLP(Crl) No.453 of 2014, dated 06.05.2014, the Judgment of this Court in the case of ***M/s. S.R.K. Enterprises, Visakhapatnam Vs. AC Beemli Circle & Ors***, in W.P.No.29397 of 2023, dated 10.11.2023 and the Judgment of this Court in the case of ***A.V. Bhanoji Row Vs. Assistant Commissioner (ST) & Ors***, in W.P.No.2830 of 2023, dated 14.02.2023.

3. The second ground of challenge raised by the petitioner, that one show-cause notice and one composite order of assessment had been passed, against the petitioner, for six different assessment years from 2017-18 (from July, 2017) to 2022-23 (to March, 2023). Such an order of adjudication is not permissible under the provisions of the GST Act and would have to be set aside.

4. The petitioner had also raised the subsidiary ground that the pre show-cause notices, required under Rule-142(1A) of the Goods & Services Tax Rules, 2017 [for the short “the GST Rules”], in Form GST DRC-01A, had not been issued and consequently, the assessment up to the year 2020-21 is vitiated and becomes unsustainable. In such a situation, the entire assessment would have to be set aside. The other issues raised are not being considered, at this stage, as the aforesaid grounds of challenge are sufficient for the present.

5. The first ground raised by the petitioner was that the five summaries of the orders and the show-cause notice do not contain a physical or digital signature and consequently, the entire proceedings would have to be set aside. This Court had, earlier, held that any notices or proceedings, issued electronically or otherwise, require the signature of the issuing authority, failing which such notices or proceedings would be deemed to be not served. However, the question of whether the same principle would have to applied, when a registered person, responds to such defective notices/proceedings had not been considered.

6. Where a registered person, after the receipt of such defective notices or proceedings, responds to such notices or proceedings, cannot be contend that such notices or proceedings continued to remain invalid or deficient. The registered person, having acted upon such proceedings or notices, cannot turn around and claim later that the said notices and consequential proceedings are to be set aside on the technical plea of absence of signatures in such notices or proceedings. However, where the registered person has not acted upon such notices or proceedings, despite receipt of such notices or proceedings, it would be open to the registered person to contend that such notices or proceedings were invalid and it was not necessary for the registered person to act upon such invalid notices or proceedings.

7. This Court, had earlier relied upon the Rule-26(3) of the GST Rules, to contend that any notice, certificate and order, which does not contain the digital signature of the issuing authority should be treated as invalid notices. However, a closer look at Rule-26(3) of the GST Rules would reveal that the earlier view may not be appropriate. Rules-26 of the GST Rules is contained in Chapter-3 of the Central Goods & Services Tax Rules, 2017. Chapter-3 relates to registration of persons, under the provisions of the GST Act. Rule-26(1) of the GST Rules, 2017, relates to all applications and replies to any notices etc, submitted, by registered or other persons, under any of the provisions of the GST Rules, 2017. This rule requires, such notices/proceedings to be submitted electronically, by the registered persons,

with digital signature certificate or through e-signature or verified by any other mode of signature etc, as notified by the board. Rule-26(2) of the GST Rules, again speaks of documents and returns that would be filed by registered persons. This sub-rule would also be applicable to all the Chapters in the Rules. However, the Rule-26(3) of the GST Rules, under which the authorities are to serve notices, certificates and orders, applies only to notices, certificates and orders, issued under the provisions of the Chapter-3. This would mean that this Sub-Rule would be applicable only in relation to notices, certificates and orders arising out of the registration process.

8. The appropriate rule for service of notices and demands, in relation to assessments and other proceedings, mentioned therein, would be Rule-142 of the GST Rules 2017, which reads as follows:-

“Rule-142: Notice and order for demand of amounts payable under the Act.

(1) The proper officer shall serve, along with the

(a) Notice issued under section 52 or section 73 or section 74 10[or section 74A] or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, a summary thereof electronically in FORM GST DRC-01 ,

2[(1A) The 3[proper officer may], before service of Notice to the person chargeable with tax, interest and penalty, under sub-section (1) of Section 73 or sub-section (1) of Section 74 10[or sub-section (1) of section 74A], as the case may be, 4[communicate] the details of any tax, interest and penalty as ascertained by the said officer, in Part A of FORM GST DRC-01A.];

(5) A summary of the order issued under section 52 or section 62 or section 63 or section 64 or section 73 or section 74 10[or section 74A] or section 75 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 shall be uploaded electronically in FORM GST DRC-07, specifying therein the amount of 6[tax, interest and penalty, as the case may be, payable by the person concerned].

(6) The order referred to in sub-rule (5) shall be treated as the Notice for recovery.

(7) Where a rectification of the order has been passed in accordance with the provisions of section 161 or where an order uploaded on the system has been withdrawn, a summary of the rectification order or of the withdrawal order shall be uploaded electronically by the proper officer in FORM GST DRC-08.]”

9. The said rule is self explanatory. However, this Rule requires all the notices, orders etc., under Sections 73 & 74 of the GST Act, apart from the other provisions mentioned therein, to be served electronically. Non-service of the notices issued under Sections 73 & 74 of the GST Act, would automatically render further proceedings invalid, unless the registered person, to whom such notices had been sent, had responded to the same by filing his objections etc. Section 142(5) of the GST Rules requires the summary of the order to be send electronically, in Form GST DRC-07. Non-service of summary of the order, in Form GST DRC-07 would render such summary of the order invalid unless and until such orders are communicated electronically.

10. In the present case, the petitioner contends that none of these forms, have the digital signatures of the issuing authority. A perusal of the show-cause notice, in Form DRC-01, shows that the notices are said to have been signed by the issuing authority. The printed format is as follows:

“Signed by Nittala Venkata Subramanyam,
dated 24.06.2024 14:01:32.”

11. The summary of order, in Form GST DRC-07, contains the following format, as an indication of the signature of the issuing authority, here under:-

“Signature
Name: Bondada Ananda Rao,
Designation: Assistant Commissioner,
Amaravathi Division,
Jurisdiction: Bapatla: Guntur
II: Andhra Pradesh.”

12. Sri J.N. Venkata Suresh Kumar, learned counsel for the petitioner would contend that the said format, would not amount to a certification of the digital signature.

13. This Court, which is being confronted, by various models of signatures being affixed on the proceedings of the tax authorities, with a view to understand the significance of these signatures and whether what is printed on the orders or notices indicate affixture of the digital signatures had sought the assistance of Smt. Santhi Chandra, learned Senior Standing Counsel for the Central GST authorities. She, with the assistance of the officials of the Central GST department, had demonstrated the manner in which these signatures are affixed and had also filed a counter affidavit on this issue.

14. Without going into the nitty-gritty, of the said explanation, it would suffice to hold that, this Court is convinced that the show-cause notice, in Form GST DRC-01 and the summary of the assessment order, in Form GST DRC-07, have to be issued electronically and they cannot be issued electronically, unless the said proceedings have been digitally signed by the issuing authority. Further, the affixture of any digital signature on any document or proceeding would automatically generate an Identification Number, called the RFN Number. The presence of a RFN number is sufficient for the Court, to hold that a digital signature has been affixed on the said documents. It is further informed, by the learned Senior Standing Counsel, that steps are being taken to standardize the digital signatures and the printed formats of such digital signatures.

15. In the present case, the summary of orders, placed before this Court by the petitioner, contain such indications. Consequently, it must be held that the contention of the petitioner relating to the absence of signatures has to be negatived.

16. The second ground raised by the petitioner, is the issuance of a composite show-cause notice and a composite order of assessment for different assessment years. A Division Bench of this Court, by an Order dated 17.09.2025, in W.P.Nos.11028 of 2025 & Batch, had held that neither a common show-cause notice or a common order, can be issued for different tax periods, and that separate show-causes and separate orders as well as separate summary of orders would have to be passed in relation to the each tax period. In such circumstances, the common order-in-original, dated 09.01.2025 for the assessment periods 2017-18 (from July,2017) to 2022-23 (to March,2023), is impermissible and has to be set aside. The show-cause notice, dated 01.08.2024, issued, in Form GST DRC-01, does not speak of any earlier notice issued under Section 142(1A), in Form GST DRC-01A. Hence, it must be treated that no such notice had been issued. As rightly contended by the learned counsel for the petitioner, every assessment for the period, prior to 2021, which has been undertaken, without prior issuance of notice under Section 142(1A) of the GST Act, has to be set aside, in view of Judgment of a Division Bench of this Court, dated 12.10.2023, in W.P.No.12850 of 2022, in the case of **M/s. New Morning Star Travels Vs. State of Andhra Pradesh & Ors.**

17. For all the aforesaid reasons, this Writ Petition is allowed setting aside the impugned assessment order, dated 09.01.2025, in Form GST DRC-07 and the summaries of orders, dated 17.01.2025, passed by the 1st respondent and the cases are remanded back to the 1st respondent, for passing orders, in accordance with law, and after due opportunity of hearing is given to the petitioner.

18. Needless to say, the period from the date of this Order, till the date of receipt of this Order, shall be excluded for the purposes of limitation. There shall be no order as to costs.

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

R RAGHUNANDAN RAO, J

T.C.D. SEKHAR, J

Date: 26.09.2025
BSM

HON'BLE SRI JUSTICE R RAGHUNANDAN RAO

AND

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

WRIT PETITION No.14874 of 2025

(per Hon'ble Sri Justice R Raghunandan Rao)

26-09-2025

BSM