

APHC010119382026



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

[3529]

WEDNESDAY, THE FIFTEENTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

**THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO
THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR**

WRIT PETITION No.6645/2026

Between:

1.V.V.S.ENTERPRISES, REPRESENTED BY ITS
MANAGING PARTNER SRI KOTTADA SANKARA RAO
S/O SRI APPALA SWAMI NAIDU, AGED 56 YRS,
D.NO.PLOT NO.11 AND 12 , GROUND FLOOR,
VADLAPUDI, DUVVADA VILLAGE GAJUWAKA
MANDAL.VISAKHAPATNAM DISTRICT 520046.

...PETITIONER

AND

- 1.THE STATE OF ANDHRA PRADESH, REP., BY ITS
PRINCIPAL SECRETARY TO GOVERNMENT,
REVENUE(CT) DEPARTMENT, VELAGAPUDI,
AMARAVATHI, GUNTUR DISTRICT.-522237
- 2.UNION OF INDIA, MINISTRY OF FINANCE REP., BY
ITS SECRETARY .SASTRY BHAVAN, NEW DELHI.
110001
- 3.THE DEPUTY COMMISSIONER, (ST) -II, AIR PORT
CIRCLE, OFFICE OF THE JOINT COMMISSIONER
(ST) VISAKHAPATNAM DISTRICT.530002
- 4.THE ASSISTANT COMMISSIONER ST, AIR PORT
CIRCLE,VISAKHAPATNAM II ,VISAKHAPATNAM.
530002
- 5.THE BRANCH MANAGER, ICICI BANK SITUATED AT
MURALINAGAR, VISAKHAPATNAM.-530007

...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 Pleased to Issue a Writ or Order or Direction more particularly one in the nature of a Writ of Mandamus declaring the action of the Respondents particularly the Respondent No.3 and 4 issuing Impugned Notice DIN 3706122510265 dated .05-02-2026 U/s 79 (1)(c) of A.P.G.S.T.,Act 2017 addressing the 5th Respondent Bank Ordering to pay a sum of Rs.7.54,108/- on account of Tax, Interest, Penalty and Fine from the Petitioner's Bank Account No.0159800950 without following due process of law, without issuance of any Notice to the Petitioner all are Illegal, Unlawful, Exceeding the powers and Jurisdiction, Violation of Principles of Natural justice. Violation of Article 14,19,21 of the Constitution of India Consequently to Set Aside the Impugned Notice DIN 3706122510265 dated .05-02-2026 by Allowing the Writ Petition

IA NO: 1 OF 2026

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 Impugned Notice DIN 3706122510265 dated .05-02-2026 U/s 79 (1)(c) of A.P.G.S.T.,Act 2017 addressing the 5th Respondent Bank by the 3rd respondent pending disposal of the main Writ Petition

Counsel for the Petitioner:

1.R SIVA SAI SWARUP

Counsel for the Respondent(S):

1.GP FOR COMMERCIAL TAX

The Court made the following:

HON'BLE SRI JUSTICE RAO RAGHUNANDAN RAO

AND

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

WP No.6645 OF 2026

COMMON ORDER:- *(Per Hon'ble Sri Justice T.C.D. Sekhar)*

1. The petitioner is a Registered Dealer under GST Act, on the rolls of the 4th respondent. The present Writ Petition is filed questioning the notice dt.05.02.2026 issued under Section 79(1)(c) of APGST Act, 2017, through which the 5th respondent-Bank was directed to pay a sum of Rs.7,54,108/-, which is payable by the writ petitioner towards its tax dues.

2. The counsel for the petitioner would submit that the respondent Tax Authorities, without initiating action of adjudication as provided for under Sections 73 or 74, the impugned notice under Section 79 could not have been issued. He would further submit that before issuing notice under Section 79, the proper officer did not get authorization from the competent authority to initiate such action.

3. For proper appreciation of the case of the petitioner, it is relevant to extract Section 79 of APGST Act, 2017:-

“79. (1) Where any amount payable by a person to the Government under any of the provisions of this Act or the rules made thereunder is not paid, the proper officer shall proceed to recover the amount by one or more of the following modes, namely:-

(a) the proper officer may deduct or may require any other specified officer to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other specified officer;

(b) the proper officer may recover or may require any other specified officer to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the proper officer or such other specified officer;

(c) (i) the proper officer may, by a notice in writing, require any other person from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the Government either forthwith upon the money becoming due or being held, or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount;

(ii) every person to whom the notice is issued under sub-clause (i) shall be bound to comply with such notice, and in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary;

(iii) in case the person to whom a notice under sub-clause (i) has been issued, fails to make the payment in pursuance thereof to the Government, he shall be

deemed to be a defaulter in respect of the amount specified in the notice and all the consequences of this Act or the rules made there under shall follow;

(iv) the officer issuing a notice under sub-clause (i) may, at any time, amend or revoke such notice or extend the time for making any payment in pursuance of the notice;

(v) any person making any payment in compliance with a notice issued under sub-clause (i) shall be deemed to have made the payment under the authority of the person in default and such payment being credited to the Government shall be deemed to constitute a good and sufficient discharge of the liability of such person to the person in default to the extent of the amount specified in the receipt;

(vi) any person discharging any liability to the person in default after service on him of the notice issued under sub-clause (i) shall be personally liable to the Government to the extent of the liability discharged or to the extent of the liability of the person in default for tax, interest and penalty, whichever is less;

(vii) where a person on whom a notice is served under subclause (i) proves to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold any money for or on account of the person in default, at the time the notice was served on him, nor is the money demanded or any part thereof, likely to become due to the said person or be held for or on account of such person, nothing contained in this section shall be deemed to require the person on whom the notice has been served to pay to the Government any such money or part thereof;

(d) the proper officer may, in accordance with the rules to be made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus amount, if any, to such person;

(e) the proper officer may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business or to any officer authorised by the Government and the said Collector or the said officer, on receipt of such certificate, shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue;

(f) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (Act 2 of 1974) the proper officer may file an application to the appropriate Magistrate and such Magistrate shall proceed to recover from such person the amount specified thereunder as if it were a fine imposed by him.

(2) Where the terms of any bond or other instrument executed under this Act or any rules or regulations made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (1), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.

(3) Where any amount of tax, interest or penalty is payable by a person to the Government under any of the provisions of this Act or the rules made thereunder and which remains unpaid, the proper officer of central tax, during the course of recovery of said tax arrears, may recover the amount from the said person as if it were an arrear of central tax and credit the amount so recovered to the account of the Government.

(4) Where the amount recovered under sub-section (3) is less than the amount due to the Central Government and State Government, the amount to be credited to the account of the respective Governments shall be in proportion to the amount due to each such Government.

1[Explanation.—For the purposes of this section, the word person shall include “distinct persons” as referred to in sub-section (4) or, as the case may be, sub-section (5) of section 25]

4. A perusal of the said provision, it is evident that no authorization is required. Further, the said provision will be

pressed into service, in order to recover the tax dues of a registered person under the GST Act. In the case on hand, the learned Government Pleader for Commercial Taxes would submit that, the respondent authorities have passed Assessment order dt.17.01.2025 against the petitioner raising certain demand. He would further submit that, the Assessment Order was uploaded in the portal on the same day. Despite the same, the petitioner failed to pay the tax dues and in those circumstances, having left no other option, the Assessing Authority issued impugned notice dt.05.02.2026.

5. The learned Government Pleader would further submit that the Chief Commissioner of State Tax, Andhra Pradesh, Vijayawada issued Notification dt.14.12.2022 under which proper officers are named for various functions referred to under APGST Act. The said notification was published in the State Gazette vide Gazettee No.3248, dt.14.12.2022. Copy of the said Gazettee is placed before this Court. On a reading of the said Gazattee Notification, it is evident that the Deputy Assistant Commissioner (ST) having jurisdiction over the dealer was to be the proper officer for the purpose of exercising powers under Section 79 of APGST Act.

6. In the case on hand, the impugned notice was issued by Deputy Assistant Commissioner (ST-II), Airport Circle, Visakhapatnam-II Division. Juxtaposing the Gazettee with the notice under challenge, it is clear that the impugned notice was issued by the proper officer. Further, as already noted supra, the question of getting authorization from the competent authority before issuing notice under Section 79, does not arise, especially when the provision itself does not provide for. Further, the notice under challenge was issued by the proper officer as per the Gazette referred to herein above. In that view of the matter, the contention of the petitioner that, the 4th respondent is not authorized to issue notice under challenge does not merit consideration.

7. The impugned notice is questioned on yet another ground that before issuing the same, the petitioner was not put on notice. In support of this contention, the learned counsel for the petitioner would rely on the judgment rendered by Hon'ble High Court of Karnataka at Bengaluru in WP No.35441 of 2024 in the case of "SJR Prime Corporation Pvt. Ltd., Vs. the Superintendent of Central Taxes and another". He would further submit that following this judgment,

High Court of Karnataka passed similar order in the case of **“M/s. RAMMS India Pvt. Ltd., Vs. The Deputy Commissioner of Commercial Taxes in WP No.34270 of 2025”**. He would also rely on the judgment rendered by Hon’ble High Court of Bombay in the case of **“M/s.Galaxy International Vs. Union of India and others in WP No.11399 of 2024”**.

8. The main ground of attack of the petitioner against the impugned notice is that, the 4th respondent without issuing notice to the petitioner asking him to remit the tax dues, could not have initiated action under Section 79 of the APGST Act by directing the 5th respondent-Bank to remit the same. The said contention of the petitioner cannot be countenanced inasmuch as the purport of the Section 79 is to recover the tax dues from third parties from whom money is due or may become due, which is payable to the defaulting dealers.

9. On a reading of the Section 79, no such impediment is cast upon the tax authorities to issue notice to the defaulting dealers. In the absence of any such provision, there is no bar to recover the tax dues from any person from

whom money is due or may become due, which is payable to the defaulting dealers.

10. A perusal of the judgments relied on by the counsel for the petitioners', it is evident that in all these cases, there is a dispute with regard to the payment of tax and without adjudicating about the disputed tax, the authorities manning the Act, straight away issued notice under Section 79 of the GST Act. In such circumstances, the Courts have held that without determining the actual tax, the authorities could not have proceeded under Section 79. In that view of the matter, the Courts have quashed notice issued under Section 79 by granting liberty to the authorities to adjudicate the actual tax liability. The facts of the case on hand are entirely different and therefore the judgments relied on by the counsel for the petitioner would not come to his rescue.

11. As already noted supra, the 4th respondent passed Assessment Order dt.17.01.2025 against the petitioner and the same has attained finality. In such circumstances, in order to recover the tax dues from the petitioner, the 4th respondent issued notice under challenge, in

view of the fact that the petitioner had not remitted the tax dues even after lapse of one (01) year from the assessment.

12. Further, in the present case, there is no dispute with regard to the determination of tax, inasmuch as assessment order dated 17.01.2025 passed against the petitioner remained unchallenged till today. Therefore, this Court does not find any illegality in issuing the impugned notice dt.05.02.2026 for recovery of the tax dues.

13. For the foregoing reasons, the writ petition fails and accordingly the same is dismissed. There shall be no order as to costs.

There shall be no order as to costs. As a sequel, pending applications, if any shall stand closed.

JUSTICE RAO RAGHUNANDAN RAO

JUSTICE T.C.D. SEKHAR

15.04.2026
DR

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THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

AND

THE HONOURABLE SRI JUSTICE T.C.D. SEKHAR

WP No.6645 OF 2026
Dt.15.04.2026

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