IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE FIFTH DAY OF JANUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE THE CHIEF JUSTICE APARESH KUMAR SINGH
AND

THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN

<u>WRIT PETITION NO: 40755 OF 2025</u>

Between:

BADARLA PLATINUM ENTERPRISES LLP, 5th Floor, Flat No. A-5, SVMJ Green Homes Apartments, Begumpet, Hyderabad, Telangana, 500003 Represented by its Managing Partner Veera Venkata Ramana Badarla, S/O. Ranga Rao Badarla Aged about 58 Years, occ. Business R/O. Plot No 78-79, Surya Nagar, Karkhana, Secunderabad, Hyderabad, Telangana, 500009.

.....PETITIONER

AND

1. The Assistant Commissioner of State Tax, Begumpet Division, Begumpet-1 Circle, Telangana.
2. Commissioner of Commercial Taxes, State of Telangana, C.T. Complex, Nampally, Hyderabad- 500001.
3. State of Telangana, Through Principal Secretary to Government Revenue Department (Commercial Tax), Hyderabad, Telangana.

.....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 pass a writ order or direction, more particularly in the nature of a writ of mandamus directing to issue order under Section 73(9) of the CGST Act,2017 in the proceedings conducted against show cause notice dated 13-02-2021 bearing reference no. ZD360221008186U and declaring Order passed in Form GST DRC - 07 under Section 73 of the Telangana Goods and Services Tax Act, 2017 dated 28-08-2024 (impugned order) bearing Reference No. ZD360824120724D as being void, illegal, arbitrary, violative of Articles 14, 19, 21 and 265 of the Constitution of

India, violative of principles of natural justice, and without authority of law and consequently set aside the same.

I.A.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 all further action pursuant to the Order passed under Form No. DRC-07 bearing Reference No. ZD360824120724D dated 28-08- 2024dated passed by the Respondent No. 1 for the Financial year 2019-20.

Counsel for the Petitioner : SRI K.N.NISHANTH RAO

Counsel for the Respondents : M/s SWAROOP OORILLA, SPECIAL GOVT PLEADER FOR STATE TAX

The Court made the following ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

The Hon'ble The Chief Justice Sri Aparesh Kumar Singh

and

The Hon'ble Sri Justice G.M.Mohiuddin

Writ Petition No.40755 of 2025

Dated: 05.01.2026

Between:

Badarla Platinum Enterprises LLP
Hyderabad rep. by its Managing Partner
Veera Venkata Ramana Badarla

...Petitioner

and

The Assistant Commissioner of State Tax
Begumpet-1 Circle and others

...Respondent

Order:

Heard Mr. Nishanth Rao.K.N., learned counsel for the petitioner and Mr. Swaroop Oorilla, learned Special Government Pleader for State Tax appearing for the respondents.

2. Petitioner was faced with two show causes notices dated 13.02.2021 and 31.05.2024, for the same tax period *i.e.,* 2019-20. The first show cause notice did not lead to any adjudication, but subsequent to the second show cause notice, petitioner has been imposed the liability of tax, interest and penalty under Section 73 of the Telangana Goods and Services Tax Act, 2017 (for short 'the Act'), by the impugned Order-in-Original dated 28-08-2024, passed in an *ex parte* manner. Being aggrieved, the petitioner has approached this Court.

3. Learned counsel for the petitioner submits that multiple show cause notices for the same tax period by the State Tax Authority is not proper in the eye of law. Without adjudication on the first show cause notice to which the petitioner submitted reply, the subsequent proceedings imposing liability upon the petitioner are unwarranted. Therefore, this Court may remand the matter to the proper officer for passing a fresh assessment order after giving an opportunity to the petitioner.

4. Learned Senior Standing Counsel for CBIC submits that as per the Standard Operating Procedure (SOP) contained in Circular dated 14.10.2025, issued by the Commercial Tax Department, Government of Telangana, the proper officer can exercise the power of rectification under Section 161 of the Act by recalling the first show cause notice. He, however, submits that the petitioner ought to have appeared in the proceedings on the second show cause notice dated 31.05.2024 and filed his reply taking that plea, which he has failed to do.

5. Be that as it may, upon hearing learned counsel for the parties, since the case relates to issuance of multiple show cause notices for the same tax period by the same officer without adjudication on the first show cause notice despite filing of reply by the petitioner, we are of the view that the assessing officer should exercise powers under Section 161

of the Act and rectify or withdraw the first show cause notice. Since the second show cause notice for the same tax period ended up in an adjudication order *ex parte*, we are of the view that petitioner, in the aforesaid peculiar facts and circumstances, should be allowed an opportunity to file reply, upon consideration of which, the assessing officer shall proceed to pass a fresh assessment order on the charges raised in the subsequent show cause notice dated 31.05.2024.

6. In that view of the matter, the impugned Order-in-Original dated 28.08.2024, is set aside.

7. The matter is remanded to the assessing authority to pass a fresh assessment order, after giving due opportunity of filing reply and personal hearing to the petitioner.

8. Petitioner shall file his reply within a period of three weeks from today.

9. The Writ Petition is, accordingly, disposed of. No costs.

As a sequel, miscellaneous petitions, pending if any, stand closed.

SD/-AHMED ABDULLAH KHAN
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Assistant Commissioner of State Tax, Begumpet Division, Begumpet-1 Circle, Telangana.
2. The Commissioner of Commercial Taxes, State of Telangana, C.T. Complex, Nampally, Hyderabad- 500001.
3. The Principal Secretary to Government, Revenue Department (Commercial Tax), State of Telangana at Hyderabad, Telangana.
4. One CC to SRI K.N.NISHANTH RAO, Advocate [OPUC]
5. One CC to M/s SWAROOP OORILLA, SPECIAL GOVT PLEADER FOR STATE TAX, Advocate [OPUC]
6. Two CD Copies

SA
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BS, SF.

HIGH COURT

DATED:05/01/2026

HIGH COURT FOR THE STATE OF TELANGANA
05 FEB 2026
DESPATCHED

ORDER

WP.No.40755 of 2025

DISPOSING OF THE W.P

WITHOUT COSTS.

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24-01-26