IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH

AND

THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN

WRIT PETITION NO: 2868 OF 2026

Between:

M/s. RamaKrishna Medical Cloth and General Stores, rep by. its Proprietor- Sri. Satyanarayan Gehlot, S/o. late Chaturbhuj Gehlot, Age- 84 yrs, Occ- Business, R/o. 16-4, Gandhi Chowk, Chennur – 504201.

...PETITIONER/S

AND

1. Union of India, Rep by its Secretary Ministry of Finance, North Block, Government of India 3rd floor, Deep Building, Sansad Marg New Delhi - 110001
2. Superintendent of Central Tax, Mancherial Range, ManchErialDivision, MedchalCommissionerate .
3. The Assistant Commissioner of Central Tax, Mancherial GST Division, Medchal GST Cornmissionerate
4. State of Telangana, Rep. By its Chief Secretary and Special Chief Secretary to Government FAC, State Tax department, Secretariat, Hyderabad

...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, direction or order more particularly one in the nature of a Writ of Mandamus by declaring the impugned ex-parte Order-in-Original No. 78/2024-25-GST dated 22.01.2025 and the consequential non speaking order passed in Form GST APL-02 bearing Reference No ZD361125031545M dated 11/11/2025 and by not considering the petitioner's representation Dated-

30/12/2023 as void, il-legal, arbitrary, without jurisdiction and without authority of Law and to quash and set aside the same and to direct the respondents to consider the petitioner's representation Dated. 30/12/2023 and adopt the correct rate of 1 percentage tax for the composition dealers and drop the levy of penalty so imposed.

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to stay the collection of tax pursuant to Order-in-Original No. 78/2024-25-GST dated 22.01.2025, the consequential demand raised in Form DRC 07 bearing reference no Reference No. ZD360125052058L dated 30-01-2025 and non speaking order passed in Form GST APL-02 bearing Reference No . ZD361125031545M dated 11/11/2025 pending disposal of the above writ petition.

Counsel for the Petitioner: Ms. PUSHPINDER KAUR REPRESENTS SRI G. DURGA CHARAN

Counsel for the Respondent No 1: SRI B. MUKHERJEE REPRESENTS SRI N. BHUJANGA RAO, DEPUTY SOLICITOR GENERAL OF INDIA

Counsel for the Respondents No 2 & 3: SRI DOMINIC FERNANDES, SC FOR CENTRAL TAX

Counsel for the Respondent No 4: GP FOR STATE TAX.

The Court made the following: ORDER

BS

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.2868 of 2026

Dated: 02.02.2026

Between:
M/s. Ramakrishna Medical Cloth and General Stores,
Rep., by its Priprietor, Sri Satyanarayan Gehlot, Chennur.

... Appellant

And

Union of India, Rep., by its Secretary,
Ministry of Finance, New Delhi and 3 others.

...Respondents

ORDER:

Ms. Pushpinder Kaur, learned counsel represents Mr. G. Durga Charan, learned counsel for the petitioner.

Mr. B. Mukherjee, learned counsel represents Mr. N. Bhujanga Rao, learned Deputy Solicitor General of India for respondent No.1.

Mr. Dominic Fernandes, learned Senior Standing Counsel for Central Taxappears for respondent Nos.2 and 3.

2. The petitioner assailed the order-in-original dated 22.01.2025 passed *ex-parte* for the tax period July, 2017 to March, 2022 based on audit report. The petitioner did file reply dated 30.12.2023 to the show cause notice date

DMN PMG.
BS

23.11.2023, but did not attend personal hearing. Petitioner thereafter approached the appellate authority. The appeal has been rejected on 11.11.2025 on the ground of time barred. Before this Court both the orders are under challenge. A plea has been taken that the proceedings were time barred Moreover, proceedings under Section 74 of the Central Goods and Services Tax Act, 2017 (for short, "the Act") were not maintainable as no such grounds of fraud or suppression or misrepresentation have been made out.

3. On the part of the respondents, Mr. Dominic Fernandes, learned Senior Standing Counsel, submits that since the proceedings under Section 74 of the Act are relatable to the last date of filing of returns i.e., 07.02.2020 for the relevant tax period, the order-in-original was not barred by limitation. Under Section 74(10) of the Act order can be passed up to a period of five years from the date of filing of the returns. He submits that the petitioner having availed the appeal remedy has sought to question the original proceedings on the ground that the ingredients of Section 74 of the Act are not made out. This would amount to drawing the attention of the Court to merits of the matter, moreover, when the proceedings were initiated on the basis of audit report.

4. Having regard to the facts and circumstances noted above and the plea raised by the petitioner, we are of the considered view that the petitioner should avail the remedy under Section 112 of the Act before the Goods and Services Tax Appellate Tribunal (for short, "the Tribunal") which has been constituted. The order dated 24.09.2025 issued by the learned Tribunal has provided different window periods for filing of appeals for orders passed in different periods. Therefore, the petitioner is at liberty to avail the remedy of appeal before the learned Tribunal by filing an appeal within the window period with the statutory per-deposit. Let it be made clear that this Court has not gone into the grounds relating to invocation of Section 74 upon the petitioner. It would be open for the learned Tribunal to decide the issues raised therein in accordance with law.

5. The writ petition is accordingly disposed of

Miscellaneous applications pending, if any, shall stand closed.

SD/-L. VIJAYA LAXMI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,
1. The Secretary Ministry of Finance, Union of India, North Block, Government of India 3rd floor, Deep Building, Sansad Marg New Delhi - 110001
2. Superintendent of Central Tax, Mancherial Range, Mancherial Division, Medchal Commissionerate .
3. The Assistant Commissioner of Central Tax, Mancherial GST Division, Medchal GST Commissionerate
4. The Chief Secretary and Special Chief Secretary to Government FAC, State of Telangana,
5. One CC to SRI G. DURGA CHARAN, Advocate [OPUC]
6. One CC to SRI N. BHUJANGA RAO, DEPUTY SOLICITOR GENERAL OF INDIA , [OPUC]
7. One CC to SRI DOMINIC FERNANDES, SC FOR CENTRAL TAX, [OPUC]
8. Two CCs to GP FOR STATE TAX, High Court for the State of Telangana at Hyderabad. [OUT]
9. Two CD Copies

DAN pmc.
BS

HIGH COURT

DATED:02/02/2026

ORDER

WP.No.2868 of 2026

THE STATE OF TELANGANA

16 FEB 2026

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

12 pmq.
10/2/26.