IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FOURTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE THE CHIEF JUSTICE APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN

WRIT PETITION NO: 5482 OF 2026

Between:

M/s. A. S. Traders, 1-4-307/1, Bholakpur, Musheerabad, Hyderabad-500 020. State of Telangana Rep. by its Proprietor Mr.Patan Abdul Aziz, aged about 44 years, Occ.Business

..PETITIONER

AND

1. The Deputy Commissioner (Anti Evasion), Office of the Commissioner of Central Tax, Secunderabad Commissionerate, GST Bhavan, L.B.Stadium Road, Basheerbagh, Hyderabad-500 004.
2. The Assistant Commissioner of Central Tax, Bholakpur Division, Musheerabad Commissionerate, Hyderabad.
3. The Assistant Commissioner of Central Tax, Musheerabad GST Division, Ramgopalpet, M.G.Road, Secunderabad-500 003.
4. The Superintendent, Bansilalpet Range, Secunderabad.
5. The Union of India, Rep. by its Secretary, Ministry of Finance, North Block, New Delhi - 110 001.
6. The Central Board of Indirect Taxes and Customs, Rep. by its Chairman, Ministry of Finance, Department of Revenue, North Block, Central Secretariat, New Delhi-100 001.

..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 Wirt of Mandamus or any other appropriate Writ or Order or Direction declaring. (1) the Section 16(2)(c) read with Section 41(2) of the CGST/SGST Act 2017 are ultra vires to Article 14, 19(1)(g), 21, 265 and 300A of the Constitution of India, (2) the action of the 3rd Respondent in passing the Order-in-Original, dated 28.08.2024 and the Summary of the Order in Form GST DRC-07, dated 23.09.2024, levying Tax, Interest and Penalty under Section 74 of the CGST/SGST Acts 2017, instead of under Section 73 of the CGST/SGST Acts 2017, is contrary to the provisions of the Acts and is not valid in the eye of law, (3) the action of the 2nd Respondent in issuing the Summary of Show Cause Notice in Form GST DRC-01, dated 27.05.2024 and the action of the 3rd Respondent in issuing the Summary of the Order in Form GST DRC-07, dated 23.09.2024 without signatures either physically or digitally are nonest in the eye of law, (4) the action of the 1st and 3rd Respondents in issuing Show Cause Notice and Order-in-Original for multiple tax periods by a Composite Order for 2021-22 and 2022-23 under the CGST/SGST Acts, is not valid in the eye of law, (5) the action of the 4th Respondent in passing the Order-in-Original, dated 29.12.2025, the Order, dated 30.12.2025 and the Summary of the Order in Form GST DRC-07, dated 30.12.2025, as arbitrary, contrary to the provisions of the Act and in violation of Principles of Natural Justice and Rule of Law, and consequently set aside the Order-in-Original, dated. 28.08.2024 and the Summary of the Order in Form GST DRC-07, dated. 23.09.2024 passed by the 3rd Respondent, for the tax period April, 2021 to May, 2022 under the CGST/SGST Acts 2017 and the Order-in-Original, dated 29.12.2025, the Order, dated 30.12.2025 and the Summary of the Order in Form GST DRC-07, dated 30.12.2025 passed by the 4th Respondent for the tax period 2021-22 under the CGST/SGST Acts 2017, as null and void.

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 suspend the operation of the Order-in-Original, dated 28.08.2024 and the Summary of the Order in Form GST DRC-07, dated 23.09.2024 passed by the 3rd Respondent, for the tax period April, 2021 to May, 2022 under the CGST/SGST Acts 2017 and the Order-in-Original, dated 29.12.2025, the Order, dated 30.12.2025 and the Summary of the Order in Form GST DRC-07, dated 30.12.2025 passed by the 4th Respondent for the tax period 2021-22 under the CGST/SGST Acts 2017, pending disposal of the above Writ Petition, as otherwise, the Petitioner will be put to severe loss and hardship.

Counsel for the Petitioner: SRI MOHAMMED RAFI REPRESENTING FOR SRI SHAIK JEELANI BASHA

Counsel for the Respondent No.1 to 4 & 6: SRI DOMINIC FERNANDES, SR. SC FOR CBIC

Counsel for the Respondent No.6: Ms. M. BHAGYA SRI REPRESENTING FOR SRI N. BHUJANGA RAO, Deputy Solicitor General of India

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.5482 of 2026

DATED: 24.02.2026

Between:

M/s. A.S.Traders,
1-4-307/1, Bholakpur, Musheerabad,
Hyderabad-500 020, State of Telangana,
Rep. By its Proprietor Mr Patan Abdul Aziz,
Aged about 44 years, Occ. Business

... Petitioner

AND

The Deputy Commissioner (Anti Evasion),
Office of the Commissioner of Central Tax,
Secunderabad Commissionerate, GST Bhavan,
L.B.Stadium Road, Basheerbagh,
Hyderabad-500 004 & 5 others

... Respondents

ORDER:

Heard Mr. Mohammed Rafi, learned counsel representing Mr. Shaik Jeelani Basha, learned counsel appearing for the petitioner, Mr. Dominic Fernandes, learned Senior Standing Counsel for Central Board of Indirect Taxes and Customs (CBIC) appearing for respondent Nos.1 to 4 and 6 and Ms. M.Bhagyasri, learned counsel representing Mr. N.Bhujanga Rao, learned Deputy Solicitor General of India appearing for respondent No.5.

2. In the instant writ petition, the challenge to the *vires* of Section 16(2)(c) of the Central Goods and Services Tax Act, 2017, and the State Goods and Services Tax Act, 2017.

3. We are not inclined to entertain the challenge to *vires* of Section 16(2)(c) of the CGST Act, 2017 and the SGST Act, 2017. The order-in-original was passed on 28.08.2024 and it appears that the petitioner has sought to assail the *vires* of Section 16(2)(c) of the CGST Act, 2017 and the SGST Act, 2017 only to keep alive the challenge to the order-in-original though it has been passed one and a half years before.

4. In such circumstances, learned counsel for the petitioner seeks and is allowed liberty to the petitioner to prefer an appeal against the impugned Order-In-Original. He submits that some delay might have been occurred in approaching the appellate authority and therefore, he may be directed to consider it sympathetically.

5. Learned Senior Standing Counsel for CBIC submits that the petitioner is at liberty to prefer an appeal against the Order-In-Original and Summary of the order in FORM GST DRC-07 taking all the grounds as are available in law and on facts before the appellate authority in respect of the subject tax period.

6. Upon hearing the learned counsel for the parties and having regard to the aforesaid facts and circumstances, since the petitioner seeks liberty to prefer an appeal, we do not wish to make any comment on the merits of the contentions raised by the parties.

7. If the petitioner prefers an appeal within a period of two weeks with statutory pre-deposit along with a delay condonation application, the learned appellate authority would consider it in accordance with law by taking into consideration that the petitioner has been pursuing the writ remedy before this Court in the meantime as well. The petitioner will be at liberty to take all the grounds in law and on facts before the appellate authority. If the appellate authority is satisfied that the delay is explained, he would entertain the appeal on merits.

8. Accordingly, the instant Writ Petition is disposed of with the aforesaid liberty. There shall be no order as to costs.

Miscellaneous applications, if any pending, shall stand closed.

SD/-B. REKHA RANI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Deputy Commissioner (Anti Evasion), Office of the Commissioner of Central Tax, Secunderabad Commissionerate, GST Bhavan, L.B.Stadium Road, Basheerbagh, Hyderabad-500 004.
2. The Assistant Commissioner of Central Tax, Bholakpur Division, Musheerabad Commissionerate, Hyderabad.
3. The Assistant Commissioner of Central Tax, Musheerabad GST Division, Ramgopalpet, M.G.Road, Secunderabad-500 003.

--contd--

4. The Superintendent, Bansilalpet Range, Secunderabad.
5. The Secretary, Ministry of Finance, The Union of India, North Block, New Delhi - 110 001.
6. The Chairman, Ministry of Finance, The Central Board of Indirect Taxes and Customs, Department of Revenue, North Block, Central Secretariat, New Delhi-100 001.

7. One CC to SRI SHAIK JEELANI BASHA, Advocate [OPUC]
8. One CC to SRI DOMINIC FERNANDES, SR. SC FOR CBIC[OPUC]
9. One CC to SRI N. BHUJANGA RAO, Deputy Solicitor General of India [OPUC]
10. Two CD Copies

BN
BS
pmc.

HIGH COURT

DATED:24/02/2026

HIGH COURT FOR THE STATE OF TELANGANA
13 MAR 2026
DESPATCHED

ORDER

WP.No.5482 of 2026

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

12 PMG.
11/3/26.