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

TUESDAY, THE SEVENTEENTH 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: 4426 OF 2026

Between:

Alokadci Holdings Pvt. Ltd., GSTIN. 36AAQCA6337D1ZL 84, MIG, Dharma Reddy Colony, Phase II, Vasanth Nagar, Kukatpally, Hyderabad - Telangana - 500072 Represented by its Authorized Signatory Mr. Ashok Kumar Reddy, S/o. P Aswartha Reddy Aged about 42 Years, R/o. Ananthapur

...PETITIONER

AND

1. Commissioner of Central Tax, Central Excise and Service Tax Medchal Commissionerate Medchal GST Bhavan, 11-4-649/B, Lakdi ka Pul, Hyderabad - 500 004.
2. Joint Commissioner of Central Tax, Medchal GST Commissionerate Medchal GST Bhavan, 11-4-649/B, Lakdi ka Pul, Hyderabad - 500 004.
3. Assistant Commissioner, CGST. Kukatpally Division, Medchal GST Commissionerate Medchal GST Bhavan, 11-4-649/B, Lakdi ka Pul, Hyderabad - 500 004.
4. Superintendent CGST, KPHB Range, Kukatpally Division Medchal GST Commissionerate Medchal GST Bhavan, 11-4-649/B, Lakdi ka Pul, Hyderabad - 500 004.

...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, order or direction, more particularly the nature of a writ of mandamus declaring the show cause notice dated 02/05/2025 bearing OR No. 12/2025-26-Adjn(Medchal)-GST and the consequent order bearing O.R.No. 12/2025-26-Adjn(Medchal)-GST dated 28/10/2025 along with the DRC 07s bearing Reference No. ZD3611250483499 and ZD361125048364H as being void, illegal, arbitrary, without jurisdiction and violative of Articles 14 and 265 of the Constitution of India and consequently set aside the same

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 all further action including collection of tax pursuant to order bearing O.R.No. 12/2025-26-Adjn(Medchal)- GST dated 28/10/2025 along with the DRC 07s bearing Reference No. ZD3611250483499 and ZD361125048364H, pending disposal of the writ petition.

Counsel for the Petitioner: SRI M.NAGA DEEPAK

Counsel for the Respondents: SRI DOMINIC FERNANDES, Sr. SC FOR CBIC

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.4426 of 2026

Dated: 17.02.2026

Between:

Alokadci Holdings Pvt. Ltd,
GSTIN: 36AAQCA6337D1ZL,
84 MIG, Dharma Reddy Colony,
Phase II, Vasanth Nagar, Kukatpally,
Hyderabad, rep. by its Authorised Signatory
Mr. Ashok Kumar Reddy, S/o P.Aswartha Reddy

...Petitioner

and

Commissioner of Central Tax,
Central Excise & Service Tax,
Medchal Commsisionerate
Medchal GST Bhavan,
11-4-649/B, Lakdi ka Pul,
Hyderabad and 3 others

...Respondents

Order:

Heard Mr. M.Naga Deepak, learned counsel for the petitioner and Mr. Dominic Fernandes, learned Senior Standing Counsel for Central Board of Indirect Taxes and Customs (CBIC) appearing for the respondents.

2. The Order-in-Original dated 28.10.2025, passed by the Joint Commissioner of Central Tax, Medchal GST Commissionerate, imposing upon the petitioner, penalty of Rs.3,49,73,688/- equal to the

ITC fraudulently availed, without the actual receipt of goods during the period from May, 2018 to June 2019 under Section 122(1)(vii) read with Section 74 of the of the Central Goods and Services Tax Act, 2017 and Telangana Goods and Services Tax Act, 2017 (CGST/TGST Act) and Section 20 of the Integrated Goods and Services Tax Act, 2017 (IGST Act) and further, penalty of Rs.3,50,19,797/- equal to the ITC fraudulently passed on during the period May, 2018 to June, 2019, by way of issuance of tax invoices without actual supply of goods under Section 122(1)(ii) read with Section 74 of the CGST/TGST Act and Section 20 of the IGST Act, has been assailed in this Writ Petition.

3. The show cause notice was issued upon the petitioner on 02.05.2025 by respondent No.2-Joint Commissioner of Central Tax, Medchal GST Commissionerate, *i.e.,* the same Officer, who passed the impugned Order-in-Original. The show cause notice alleged fraudulent availment of Input Tax Credit (ITC) and passing of ITC on fake invoices without actual supply of goods. As per the show cause notice, the ITC available in the electronic credit ledger of the tax period appeared to be ineligible in terms of Section 16(2)(b) of

the CGST Act and issuance of tax invoices without underlying supply of goods/services appeared to be in violation of Section 31 of the CGST Act. It also proposed penalty, for offences listed at Clauses (vii) and (ii) of Section 122(1) of the CGST/TGST Act read with Section 20 of the IGST Act, of an amount equivalent to the ITC passed on. The petitioner did not file reply to the summons. He was granted personal hearings on 15.09.2025, 15.10.2025 and 27.10.2025, but no response was received on all such occasions. No further adjournment was granted, taking note of Section 75(5) of the CGST Act, by the proper officer, while proceeding to confirm the demand and imposing the aforesaid penalty.

4. In the present Writ Petition, the jurisdiction of the proper officer to initiate the proceedings and pass the impugned Order-in-Original have been assailed. Reliance is placed on Circular No.254/11/2025-GST dated 27.10.2025, whereunder it is contended that, for the first time, jurisdiction was conferred upon the officers enumerated in Table-I provided thereunder to pass orders under Sections 74A, 75(2) and 122 of the CGST Act and the Rules made thereunder. It is submitted that earlier Notification No.2/2017-

Central Tax dated 19.06.2017, only conferred jurisdiction over the areas defined to the proper officer in respect of the provisions of the CGST Act and IGST Act in exercise of the powers under Section 3 read with Section 5 of the CGST Act and Section 3 of the IGST Act. Therefore, the impugned proceedings are without jurisdiction.

5. Learned counsel for the petitioner has also submitted that the administrative/executive orders or Circulars cannot be applied retrospectively as held by the Apex Court in **Bharat Sanchar Nigam Ltd. And others v. M/s. Tata Communications Ltd. Etc**[1]. Therefore, the impugned proceedings are bad in law.

6. Learned Senior Standing Counsel for CBIC has drawn the attention of this Court to Sections 74(9) and 75(13) of the CGST Act in support of his submission that the proper officer, who initiated proceedings under Section 74(1) of the CGST Act cannot initiate separate proceedings for levy of penalty in view of Section 75(13) thereof. As such, the proceedings for levy of penalty under Clauses (vii) and (ii) of Section 122(1) of the CGST/TGST Act were initiated together with the proceedings under Section 74(1) of

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[1] 2022 LiveLaw (SC) 792

the CGST Act and Section 20 of the IGST Act. The penalty imposed under Section 122(1)(ii) and 122 (1)(vii) read with 74(1) of the CGST/TGST Act are, therefore, not without jurisdiction. It is further pointed out that the same officer *i.e.,* Joint Commissioner of Central Tax, Medchal GST Commissionerate has initiated proceedings and has also passed the impugned Order-in-Original dated 28.10.2025, after issuance of the Circular dated 27.10.2025. Therefore, the impugned Order-in-Original does not suffer from any want of jurisdiction.

7. Learned Senior Standing Counsel for CBIC has relied upon a decision of the Delhi High Court in **Devender Singh v. Additional Commissioner, Central Goods and Services Tax, Delhi West**[2], rendered in similar circumstances when jurisdiction of the proper officer was questioned in the light of the Circular dated 27.10.2025. It is submitted that the present case is on a better footing since the impugned Order-in-Original has been passed after issuance of the Circular dated 27.10.2025. It is submitted that therefore, the plea of lack of jurisdiction is not made out to interfere in the matter.

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[2] [2025] 180 taxmann.com 490 (Delhi)

8. We have heard learned counsel for the parties and taken note of the materials placed on record, the relevant provisions of the CGST Act and IGST Act and also perused the decisions cited on their behalf.

9. In the instant case, the proceedings were initiated by Joint Commissioner of Central Tax, Medchal GST Commissionerate, by issuance of show cause notice dated 02.05.2025, invoking the provisions of Section 122(1)(ii) and 122(1)(vii) read with Sections 16, 50, 74 of the CGST Act and Section 20 of the IGST Act. It is not the case of the petitioner that the proper officer was not clothed with the jurisdiction to initiate proceedings under Section 74 of the CGST Act. Under sub-section (9) thereof, the proper officer can levy penalty, upon being satisfied of the evasion of tax of an amount equal to the tax. In the instant case, the same Officer, who had issued the show cause notice dated 02.05.2025, had passed the impugned Order-in-Original dated 28.10.2025, after issuance of Circular dated 27.10.2025. Therefore, on the date of passing of the impugned Order-in-Original dated 28.10.2025, respondent No.2- Joint Commissioner of Central Tax, Medchal GST Commissionerate *i.e.*, the Proper Officer had the jurisdiction to impose penalty under

Section 122(1)(ii) and 122(1)(vii) of the CGST/TGST Act for having passed on fraudulent ITC and issuance of fake invoices without actual supply of goods, which were in teeth of Section 16(2)(b) of the CGST Act.

10. Section 160 of the CGST Act deals with the Assessment Proceedings, *etc*., not to be invalid on certain grounds. As per Sub-Section (1) thereof, no assessment, reassessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any existing law. As per sub-section (2) thereof, the service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by

the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.

11. In the instant case, the petitioner did not file a reply or participate in the personal hearings and did not question the issuance of notice on lack of jurisdiction. The show cause notice dated 02.05.2025 was acted upon, leading to passing of the impugned Order-in-Original dated 28.10.2025, when, respondent No.2- Joint Commissioner of Central Tax, Medchal GST Commissionerate, had the jurisdiction to pass the impugned Order-in-Original by virtue of the Circular dated 27.10.2025.

12. In **Devender Singh** (supra), Delhi High Court had upheld the Order-in-Original dated 28.07.2025, passed by the Additional Commissioner, though it was passed prior to the issuance of Circular dated 27.10.2025, as he was the same officer duly empowered under Section 122 of the CGST Act.

13. In the totality of the facts and circumstances and reasons recorded hereinabove, we are of the considered opinion that the point of jurisdiction raised by the petitioner is not tenable in law and on facts.

14. The instant Writ Petition is, accordingly, dismissed. However, petitioner is granted to liberty to avail the remedy of appeal taking all grounds on facts and in law as are available to it.

15. Needless to say, if the petitioner prefers an appeal with a delay condonation application upon expiry of the period of limitation, the appellate authority would consider it in accordance with law and the period during which the petitioner was pursuing the writ remedy before this Court, shall stand excluded. No costs.

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

SD/-L. VIJAYA LAXMI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. One CC to SRI M.NAGA DEEPAK, Advocate [OPUC]
2. One CC to SRI DOMINIC FERNANDES, Sr. SC FOR CBIC [OPUC]
3. Two CD Copies

BSR
BS

HIGH COURT

DATED: 17/02/2026

HIGH COURT FOR THE STATE OF TELANGANA
18 MAR 2026
DESPATCHED

ORDER

WP.No.4426 of 2026

DISMISSING THE WRIT PETITION, WITHOUT COSTS

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06/03/26
K.B