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[3488]

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

THURSDAY, THE TWENTY SIXTH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

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

<u>WRIT PETITION NO: 8988 OF 2026</u>

Between:

M/s. Bhikshapathy Kummari, R/o.H.No. 7/46, Kummariguda, Kothur, Rangareddy, 509228. Rep by. Its proprietor Mr. Bhikshapathi Kummari.

...PETITIONER

AND

1. The Assistant Commissioner of Central Tax, Shamshabad CGCT Division, O/o the Assistant Commissioner of Central tax, Ranga Reddy GST Commissionerate, GST Bhavan, H.No.1-98/7/43 VIP HILLS, Jaihind Enclave, Madhapur, Hyderabad -500081.
2. The Branch Manager, State Bank of India IFSC CODE. SBIN0021180. Kothur, Mahaboob Nagar District 509228.
3. Union of India, rep. by its Secretary, Government of India, Ministry of Finance, 3rd Floor, Jeevan Deep Building, Sansad Marg, New Delhi-110 001.
4. Central Board of Direct Taxes and Customs, Rep. by Chairman Ministry of Finance, Department Revenue, North Block, Central Secretariat, New Delhi-110001.

...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 Writ of Mandamus or any other appropriate Writ or Order or Direction declaring.

(1) the action of the 1st Respondent in passing the Order-in-Original, dated 28.11.2024 served through speed post, levying tax of CGST/SGST, Interest and Penalty under Section 74 of the CGST/SGST Act 2017, for the tax period 2017-18, 2018-19 and 2019-20, without satisfying the ingredients of Section 74 of the CGST/SGST Act 2017, instead of passing the Order-in-Original under Section 73 of the CGST/SGST Act 2017, without considering the detailed objections of the Petitioner, dated 05.11.2024, without providing sufficient opportunity of being

heard, as arbitrary, contrary to the provisions of the CGST/SGST Act 2017 and in violation of Principles of Natural Justice and Rule of Law.

(2). The action of the 1st Respondent has without even issuing Form GST DRC - 01A as contemplated under Rule 142 (1A) of Rules 2017, without jurisdiction and which is in violation of Principles of Natural Justice and consequently set aside order-in-original dated 28.11.2024.

(3). To quash and set aside the Rejection Order dated 09.01.2026 passed by the (R1)Assistant Commissioner, Shamshabad, which illegally, arbitrary denied the Petitioner the benefit of the Amnesty Scheme under Section 128A of the CGST Act, 2017.

(4) To direct the 1st Respondent to lift the bank attachment and withdraw the Garnishee Notice dated 08.05.2025 (Ex-P2) issued to SBI, Kothur Branch, the petitioner is unable to do business transaction.

(5) the action of the 1st Respondent in passing a Composite Order-in-Original, dated 28.11.2024 for a period of four financial years, 2017-18, 2018-19 and 2019-20, the order is barred by limitation and is not valid in the eye of law. the "Tax Period" is defined under Section 2(106) of the CGST Act, 2017and consequently set aside the Order-in-Original, dated 28.11.2024 passed by the 1st Respondent, for the tax periods 2017-18, 2018-19 and 2019-20 under the CGST/SGST Act 2017, and to direct the Respondent to reconsider the Petitioner's tax liability for the works contract services at the correct rate of 12% (as per Notification No. 24/2017-CT Rate) instead of 18% 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 Suspend the Operation of the Order-in-Original, dated 28.11.2024, served through speed post passed by the 1st Respondent, for the tax periods 2017-18, 2018-19 and 2019-20 under the CGST/SGST Act 2017, pending disposal of the above Writ Petition, as otherwise, the Petitioner will be put to severe loss and hardship.

IA NO: 2 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 prayed that the 2nd Respondent Bank pursuant to the garnishee notice issued by the Ist Respondent dated 08-05-2025 has frizzed the bank account and the Petitioner is not permitted to carry on the bank operations. Therefore, it is just and necessary that this Hon'ble Court may be pleased to direct the Ist Respondent to revoke the bank attachment vide Garnishee Notice dated 08.05.2025 issued by the 1st Respondent, pending disposal of the writ petition.

Counsel for the Petitioner: SRI VENKATRAM REDDY MANTUR
Counsel for the Respondent Nos.1 & 4: SRI DOMINIC FERNANDES, SENIOR STANDING COUNSEL FOR CBIC
Counsel for the Respondent No.3: SRI K.RAJESH REDDY, SC FOR CENTRAL GOVT.
Counsel for the Respondent No.4: --

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. 8988 of 2026

DATED : 26.03.2026

Between:

M/s. Bhikshapathy Kummari
Represented by its Proprietor
Mr. Bhikshapathi Kummari

... Petitioner

AND

The Assistant Commissioner of Central Tax,
Shamshabad CGST Division,
Madhapur, Hyderabad and three others

... Respondents

ORDER:

Sri M. Venkatram Reddy, learned counsel appears for petitioner.

Sri Dominic Fernandes, learned Senior Standing Counsel for Central Board of Indirect Taxes and Customs (CBIC), appears for respondent Nos.1 and 4.

Sri K. Rajesh Reddy, learned counsel appears for respondent No.3.

2. This Writ Petition is filed with the following prayer:

> "…..to issue Writ of Mandamus or any other appropriate Writ or Order or Direction declaring:

(1) the action of the 1st Respondent in passing the Order-in-Original dated 28.11.2024 served through speed post, levying tax of CGST/SGST, Interest and Penalty under Section 74 of the CGST/SGST Act 2017, for the tax period 2017-18, 2018-19 and 2019-20, without satisfying the ingredients of Section 74 of the CGST/SGST Act 2017, instead of passing the Order-in-Original under Section 73 of the CGST/SGST Act 2017, without considering the detailed objections of the Petitioner dated 05.11.2024, without providing sufficient opportunity of being heard, as arbitrary, contrary to the provisions of the CGST/SGST Act 2017 and in violation of Principles of Natural Justice and Rule of Law;

(2) The action of the 1st Respondent has without even issuing Form GST DRC -01A as contemplated under Rule 142 (1A) of Rules 2017, without jurisdiction and which is in violation of Principles of Natural Justice and consequently set aside order – in – original dated 28.11.2024.

(3) To quash and set aside the Rejection Order dated 09.01.2026 passed by the (R1) Assistant Commissioner, Shamshabad, which illegally, arbitrary denied the Petitioner the benefit of the Amnesty Scheme under Section 128A of the CGST Act, 2017.

(4) To direct the 1st Respondent to lift the bank attachment and withdraw the Garnishee Notice dated 08.05.2025 (Ex-P2) issued to SBI, Kothur Branch, the petitioner is unable to do business transaction.

(5) the action of the 1st Respondent in passing a Composite Order-in-Original, dated 28.11.2024 for a period of four financial years, 2017-18, 2018-19 and 2019-20, the order is barred by limitation and is not valid in the eye of law; the "Tax Period" is defined under Section 2(106) of the CGST Act, 2017 and consequently set aside the Order-in-Original dated 28.11.2024 passed by the 1st Respondent, for the tax periods 2017-18, 2018-19 and 2019-20 under the CGST/SGST Act 2017, and to direct the Respondent to reconsider the Petitioner's tax liability for the works

> contract services at the correct rate of 12% (as per Notification No.24/2017-CT Rate) instead of 18% as null and void."

3. The petitioner had filed an application for taking the benefit of waiver of interest and penalty under Section 128A of the Central Goods and Services Tax Act, 2017 (for short 'the Act') on 17.01.2025 which was however rejected on 09.01.2026 as the impugned order-in-original dated 28.11.2024 read with DRC-07 issued by respondent No.1 is passed under Section 74 of the Act which is not eligible for waiver of tax, interest and penalty. Thereafter, the petitioner approached this Court challenging the garnishee notice dated 08.05.2025. The petitioner claims to have paid the entire tax liability.

4. Learned counsel for the Department submits that the rejection of the application under Section 128A of the Act is proper and deserves no interference since the proceedings and the order-in-original are passed under Section 74 of the Act. It is further submitted that the petitioner if aggrieved by the order under Section 74 of the Act, is at liberty to approach the

appellate authority by taking all the grounds as are available to it in law and on facts before the appellate authority which he has failed to do so.

5. However, upon hearing the learned counsel for the parties, since the petitioner seeks liberty to prefer an appeal, we do not wish to comment on the merits of the contentions raised by the parties.

6. The petitioner may approach the appellate authority within a period of two (2) weeks with a delay condonation application and statutory pre-deposit. It is open for the petitioner to take all such grounds in law and on facts in the appeal. Needless to say, the appellate authority would consider the question of delay and if he is satisfied with the reasons explained in the delay condonation application, he shall decide the case on merits. During the period of two weeks within which the petitioner has to file an appeal, no coercive steps be taken against the petitioner pursuant to the impugned garnishee notice.

7. 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/- A.H.S.GOWRI SHANKAR
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Assistant Commissioner of Central Tax, Shamshabad CGCT Division, O/o the Assistant Commissioner of Central tax, Ranga Reddy GST Commissionerate, GST Bhavan, H.No. 1-98/7/43 VIP HILLS, Jaihind Enclave, Madhapur. Hyderabad -500081.
2. The Branch Manager, State Bank of India IFSC CODE. SBIN0021180. Kothur, Mahaboob Nagar District 509228.
3. The Secretary, Union of India, Government of India, Ministry of Finance, 3rd Floor, Jeevan Deep Building, Sansad Marg, New Delhi-110 001.
4. The Chairman, Central Board of Direct Taxes and Customs, Ministry of Finance, Department Revenue, North Block, Central Secretariat, New Delhi-110001.
5. One CC to SRI VENKATRAM REDDY MANTUR, Advocate [OPUC]
6. One CC to SRI DOMINIC FERNANDES, SENIOR STANDING COUNSEL FOR CBIC [OPUC]
7. One CC to SRI K.RAJESH REDDY, SC FOR CENTRAL GOVT. [OPUC]
8. Two CD Copies

PSK.
TKS

HIGH COURT

DATED:26/03/2026

ORDER

WP.No.8988 of 2026

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

10 NT
8/4/26.