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

TUESDAY, THE FOURTEENTH DAY OF JULY
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: 21039 OF 2026</u>

Between:

Ms. Harsha Developers, Plot No. 41, Nagarjuna Hills, Punjagutta, Hyderabad 500082 Represented by its Partner, Gadiraju Venkata Satya Kishore Raju S/o. G Krishnam Raiu,Aged about 57 years, R/o. D No 6-23,D Block, Flat No 1701, Sky high Apartment, Shaikpet, Nanakramguda,Telangana-500008

...PETITIONER

AND

1. Joint Commissioner of Central Tax, Hyderabad GST Commissionerate, GST Bhavan, L B Stadium Road, Basheerbagh, Hyderabad - 500004
2. Additional Commissioner of Central Tax,, Hyderabad GST Commissionerate, GST Bhavan, L B Stadium Road, Basheerbagh, Hyderabad - 500004
3. Commissioner of Central Tax, Appeals-I Hyderabad Commissionerate, 7th Floor, GST Bhavan, Basheerbagh, Hyderabad- 500004
4. The Superintendent of Central Tax, 3rd Floor, GST Bhavan, Basheerbagh, Hyderabad -500004
5. Union of India, Ministry of Finance, Represented by its Secretary, North Block, New Delhi-110 001
6. 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 issue a writ. order, or direction more particularly one in the nature of writ of mandamus declaring (a)Sub-rule 3) of Rule 42 of the Central Goods and Services

Tax Rules, 2017 as amended by Notification No.16/2019 Central Tax dated 29.03.2019 to be ultra vires, unconstitutional and void to the extent it mandates inclusion of input tax credit availed during the period from 01.07.2017 to 31.03.2019 (i.e., prior to the effective date of the said amendment) in the final computation and consequential reversal thereunder, on the ground that such mandate confers a retrospective operation upon a prospective amendment, in violation of (i) the express effective date of 01.04.2019 prescribed in Notification No 16/2019 itself, (ii) the settled constitutional principle that a subordinate legislation cannot, in the absence of express retrospective authority in the parent statute, be given effect anterior to its notified effective date and (iii) Articles 14, 19, 265 and 300A of the Constitution of India, insofar as it deprives the Petitioner of vested and accrued ITC rights without authority of law, (b)In the alternative, declaring that sub rule (3) of Rule 42 of the CGST Rules, 2017, as amended by Notification No. 16/2019, shall be read down and construed as applicable only in respect of ITC availed on or after 01.04.2019, and that it does not empower the Respondents to reverse or demand reversal of any ITC availed during the period 01.07.2017 to 31.03.2019 by invoking the said amended sub-rule (c)The impugned Order Order-in-Appeal bearing Ref no HYD-GST-HYC-APP1-075-2025-26 dated 30-09-2025 along with Form APL-04 bearing ZD361225044008N dated 12.12.2025 passed by the Respondent No.3 under the provisions of CGST/TGST Act, 2017 as being void, arbitrary, illegal, without jurisdiction, without authority of law apart from being violative of Articles 14, 19, 265 and 300A of the Constitution of India, and to consequently set aside the same.

<u>I.A. NO: 2 OF 2026</u>

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 operation of impugned Order-in-Appeal bearing ref no HYD-GST-HYC-APP1-075-2025-26 dated 30-09-2025 along with Form APL-04 bearing ZD361225044008N dated 12.12.2025 passed by the Respondent No. 3.

Counsel for the Petitioner : SRI P.VENKAT REDDY,
. rep., M/s.P.V PRASAD ASSOCIATES
Counsel for the Respondents No.1to4 : SRI D.RAGHAVENDRA RAO
. (SR SC FOR CBIC)
Counsel for the Respondents No.5: SRI N.BHUJANGA RAO,
DEPUTY SOLICITOR GENERAL OF INDIA
Counsel for the Respondents No.6: GP FOR COMMERCIAL 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.21039 of 2026

Dated: 14.07.2026

Between:

M/s. Harsha Developers, Plot No.41,
Nagarjuna Hills. Punjagutta, Hyderabad-500082,
Represented by its Partner,
Gadiraju Venkata Satya Kishore Raju,
S/o. G. Krishnam Raju

... Petitioner

AND

Joint Commissioner of Central Tax,
Hyderabad GST Commissionerate,
GST Bhavan. L B Stadium Road,
Basheerbagh, Hyderabad-500004 and five others

... Respondents

ORDER:

Heard Mr. P. Venkat Reddy, learned counsel representing M/s. P.V. Prasad Associates, for the petitioner and Mr. D. Raghavendar Rao, learned Senior Standing Counsel for Central Board of Indirect Taxes and Customs (CBIC), appearing for respondent Nos.1 to 4.

2. The petitioner is challenging the order-in-appeal dated 30.09.2025 insofar as it upholds the reversal of Input Tax Credit (ITC), interest and penalty by retrospectively applying Rule 42(3) of the Central Goods and Services Tax Rules, 2017 (for short 'the Rules'), to ITC availed prior to 01.04.2019, the date on which the amended Rule 42(3) of the Rules came into force.

3. Learned counsel for the petitioner contended that the application of the amended Rule in that fashion is illegal and *ultra vires* the parent Act and takes away the benefits enjoyed under the existing Rule. He has *inter alia* taken other grounds on merits as well.

4. Learned Senior Standing Counsel for CBIC appearing for respondent Nos.1 to 4 submits that against the impugned order-in-appeal, the petitioner has a remedy of appeal before the Goods and Services Tax Appellate Tribunal (GSTAT).

5. In view of the same, learned counsel for the petitioner seeks to withdraw the Writ Appeal with liberty to the petitioner to file an appeal before the learned GSTAT.

6. Accordingly, the Writ Petition is disposed of as withdrawn with liberty to the petitioner to file an appeal along with statutory pre-deposit before the learned GSTAT, taking all such grounds of law and facts available to it. Needless to say, this Court has not expressed any opinion on the merits of the case. No order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

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

//TRUE COPY//

SECTION OFFICER

To,

1. One CC to M/S.P.V.PRASAD ASSOCIATES, Advocate. [OPUC]
2. One CC to SRI D.RAGHAVENDRA RAO, (SR SC FOR CBIC). [OPUC]
3. Two CCs to GP FOR COMMERCIAL TAX, High Court for the State of Telangana, at Hyderabad. [OUT]
4. One CC to N.BHUJANGA RAO, DEPUTY SOLICITOR GENERAL OF INDIA [OPUC]
5. Two CD Copies.

BSK

TKS

HIGH COURT

DATED: 14/07/2026

HIGH COURT FOR THE STATE OF TELANGANA
24 JUL 2026
★ DESPATCHED ★

ORDER

WP.No.21039 of 2026

DISPOSING OF THE WRIT PETITION
AS WITHDRAWN
WITHOUT COSTS

8 copies
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22/7/26