IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE FOURTH DAY OF AUGUST
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: 21060 OF 2026

Between:

M/s.ARK and Co., rep. by its Proprietor Sri Raghavendra Kherdekar, Office at 2nd Floor, 5-9-225, Sanali Estate, Chirag Ali Lane, Abids, Hyderabad-500001, Telangana.

...PETITIONER

AND

1. The Union of India, Rep. by its Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi - 110 001.
2. The Commissioner of Central Tax, Hyderabad GST Commissionerate, GST Bhavan, L.B. Stadium Road, Basheerbagh, Hyderabad - 500 004.
3. The Additional Director / Joint Director, Directorate General of GST Intelligence (DGGI), Visakhapatnam Zonal Unit, Visakhapatnam - 530 020.
4. The Joint Commissioner of Central Tax, Hyderabad GST Commissionerate, GST Bhavan, L.B. Stadium Road, Basheerbagh, 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 or Order or Direction, more particularly one in the nature of MANDAMUS. - (i) Declaring Section 122 of the Central Goods and Services Tax Act, 2017 as Ultra Vires as the said Section being an independent section without machinery provision as to limitation for passing such order, as to the proper authority or the procedure, to be followed for issuing of show cause notice, call for reply, hearing etc. and therefore said section is illegal, manifestly arbitrary, violative of Article 14 of the Constitution of India, (ii) Declaring the action of the 4th respondent in passing the impugned composite Order-in-Original No.41/2025-26-Adjn.(JC)-HYD-GST dated 12.06.2025 and the action of the 3rd respondent in issuing the common Show Cause Notice No. 64/2024-25 dated 10.06.2024 for the period from 2017-18 (Part), 2018-19, 2019-20 and 2020-21 under Section 122 of CGST Act, 2017 as Without jurisdiction, since the said order and the notice having been passed prior to the assignment of Proper Officer under Section 122 function by Circular No.254/11/2025-GST dated 27.10.2025, and are therefore void ab initio, and quash the same.

I.A. 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 stay all further proceedings including any recovery proceedings for collection of penalty and interest through coercive methods in pursuance of the impugned composite Order-in-Original No.41/2025-26- Adjn.(JC)-HYD-GST dated 12.06.2025 passed by the 4th respondent and the common Show Cause Notice No. 64/2024-25 dated 10.06.2024 for the period from 2017-18 (Part), 2018-19, 2019-20 and 2020-21.

Counsel for the Petitioner: Sri. B Krishna Reddy

Counsel for the Respondent No.1: SRI. M S ACHYUTH BHARTHWAJ
Counsel for the Respondent No.3: SRI DOMINIC FERNANDES, SC FOR CBIC
Counsel for the Respondent No.2 & 4: SRI D. RAGHAVENDRA RAO, 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.21060 OF 2026

Dated: 04.08.2026

Between:

M/s. ARK & Co.,
Rep. by its Proprietor Sri Raghavendra Kherdekar,
Chirag Ali Lane, Abids, Hyderabad, Telangana

...Petitioner

and

The Union of India,
Rep. by its Secretary, Ministry of Finance,
Department of Revenue, North Block,
New Delhi-110 001 and 3 others

...Respondents

ORDER:

Heard Mr. B. Krishna Reddy, learned counsel appearing for the petitioner; Mr. M.S. Achyuth Bharathwaj, learned Central Government Standing Counsel, appearing for respondent No.1; Mr. Dominic Fernandes, learned Senior Standing Counsel for Central Board of Indirect Taxes and Customs (CBIC), appearing for respondent No.3 and Mr. D. Raghavendra Rao, learned Senior Standing Counsel for CBIC, appearing for respondent Nos.2 and 4.

2. This Writ Petition is filed for the following relief:

> "..to issue a Writ or Order or Direction, more particularly one in the nature of MANDAMUS: - (i) Declaring Section 122 of the Central Goods and Services Tax Act, 2017 as Ultra Vires as the said Section being an independent section without machinery provision as to limitation for passing such order, as to the proper authority or the procedure, to be followed for issuing of show cause notice, call for reply, hearing etc. and therefore said section is illegal, manifestly arbitrary, violative of Article 14 of the Constitution of India, (ii) Declaring the action of the 4th respondent in passing the impugned composite Order-in-Original No.41/2025-26-Adjn.(JC)-HYD-GST dated 12.06.2025 and the action of the 3rd respondent in issuing the common Show Cause Notice No.64/2024-25 dated 10.06.2024 for the period from 2017-18 (Part), 2018-19, 2019-20 and 2020-21 under Section 122 of CGST Act, 2017 as Without jurisdiction, since the said order and the notice having been passed prior to the assignment of Proper Officer under Section 122 function by Circular No.254/11/2025-GST dated 27.10.2025, and are therefore void ab initio, and quash the same, and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and in the interest of justice."

3. However, after some arguments, learned counsel for the petitioner seeks liberty to the petitioner to prefer an appeal against the impugned order. He submits that the petitioner may also be allowed to take the plea of non-requirement of pre-deposit in terms of amendment to the proviso to Section 107(6) of the Central Goods and Services Tax Act, 2017 (for short 'the Act'), *vide* notification dated 17.09.2025, as the impugned order relates only to imposition of penalty for the subject tax period under Section 122 of the Act. He submits that some delay might have been occurred in preferring the appeal and therefore, the same may be directed to be considered sympathetically.

4. Both the learned Standing Counsel for CBIC submit that the petitioner was at liberty to prefer an appeal against the impugned order taking all the grounds as are available to it in law and on facts.

5. However, upon hearing 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. Accordingly, we grant liberty to the petitioner to prefer an appeal within a period of two weeks with a delay condonation application. The petitioner may take all such grounds in law and on facts in the memo of appeal as are available to it, including non-requirement of pre-deposit by referring to the Circular, issued in terms of amendment to the proviso to Section 107(6) of the Act *vide* notification dated 17.09.2025. Needless to say, the appellate authority would take a decision on that plea and also consider the question of delay taking into account the facts and circumstances of the case and if it is satisfied on the point of delay, proceed to decide the appeal on merits in accordance with law.

7. The Writ Petition is, accordingly, disposed of with the aforesaid liberty. There shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

SD/- A .JAYASREE
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Secretary, Ministry of Finance, Department of Revenue, Union of India, North Block, New Delhi - 110 001.
2. The Commissioner of Central Tax, Hyderabad GST Commissionerate, GST Bhavan, L.B. Stadium Road, Basheerbagh, Hyderabad - 500 004.
3. The Additional Director / Joint Director, Directorate General of GST Intelligence (DGGI), Visakhapatnam Zonal Unit, Visakhapatnam - 530 020.
4. The Joint Commissioner of Central Tax, Hyderabad GST Commissionerate, GST Bhavan, L.B. Stadium Road, Basheerbagh, Hyderabad - 500 004.
5. One CC to SRI. B KRISHNA REDDY, Advocate [OPUC]
6. One CC to SRI. M S ACHYUTH BHARTHWAJ, Advocate [OPUC]
7. One CC to SRI DOMINIC FERNANDES, SC FOR CBIC [OPUC]
8. One CC to SRI D. RAGHAVENDRA RAO, SC FOR CBIC [OPUC]
9. Two CD Copies

DAN
TKS

HIGH COURT

DATED: 04/08/2026

ORDER

WP.No.21060 of 2026

HIGH COURT FOR THE STATE OF TELANGANA
18 AUG 2026
DESPATCHED

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

11

14/8/26