

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

TUESDAY, THE SECOND DAY OF JULY
TWO THOUSAND AND TWENTY FOUR

PRESENT

**THE HON'BLE SRI JUSTICE SUJOY PAUL
AND
THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**

WRIT PETITION NO: 14809 OF 2024

Between:

M/s. Aarush Enterprises, 3-6-293, Opposite Apollo Hospital, Hyderguda, Hyderabad, Telangana- 500029. Represented by its Proprietor, Sudhir Kistappa Naik, S/o Kishtappa Naik, Aged about 40 years, Rio 10-3-74/23/1, Teachers Colony, East Marredpally, Secunderabad, Hyderabad, Telangana-500026

...PETITIONER

AND

1. The Commissioner, Hyderabad GST Commissionerate, GST Bhavan, LB Stadium Road, Basheer Bagh, Hyderabad Telangana- 500 004
2. The Deputy Commissioner (ST II), Enforcement Wing, Commercial Tax Department, 0/0 Commissioner ST, Nampally, Hyderabad Telangana
3. Branch Manager, ICICI Bank Limited, (IFSC Code. ICIC0006305), Himayat Nagar Branch, 3-6-907/2 to 9 and 908, Beside Bharat Petrol Pump, Hyderabad, Telangana-500 029
4. Union of India, Ministry of Finance, Represented by its Secretary, North Block, New Delhi-110 001
5. 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 a Writ of Mandamus declaring impugned order issued in Form DRC-22 having reference no. vide C.No. HQAE / V / 133 / 2022-23- Hyd - GST - AE vide DIN.-20230556YN0000121221 dated 19.05.2023 passed by the Respondent No.1 under the provisions of CGST/TGST Act, 2017 as being void, arbitrary, illegal, without jurisdiction, violative of the principles of natural justice apart from being violative of Articles 14, 19(1)(g) and 265 of the Constitution of India, and to consequently set aside the same

IA NO: 1 OF 2024

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 issued vide Form DRC-22 having reference no. vide C.No. HQAE / V / 133 / 2022-23- Hyd - GST - AE vide DIN.- 20230556YN0000121221 dated 19.05.2023 by the Respondent No. 1

**Counsel for the Petitioner: SRI VENKATA PRASAD P., COUNSEL FOR
SRI M. NAGA DEEPAK**

**Counsel for Respondent No. 1: Ms. BOKARO SAPNA REDDY
(SENIOR SC FOR CBIC)**

**Counsel for Respondent No. 2: SRI P. SRI HARSHA, AGP FOR
SPECIAL GOVERNMENT PLEADER**

**Counsel for Respondent No. 4: SRI B. MUKHERJEE, COUNSEL FOR
SRI GADI PRAVEEN KUMAR,
DEPUTY SOLICITOR GENERAL**

Counsel for Respondent No. 5: GP FOR COMMERCIAL TAXES

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE SUJOY PAUL

AND

THE HONOURABLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

WRIT PETITION No.14809 OF 2024

ORDER (*per Hon'ble SP,J*)

Sri Venkata Prasad.P, learned counsel representing Sri M.Naga Deppak, learned counsel appears for the petitioner, Ms. B. Sapna Reddy, learned Senior Standing Counsel for CBIC appears for respondent No.1, Sri P.Sri Harsha, learned Assistant Government Pleader representing learned Special Government Pleader for State Tax appears for respondent No.2 and Sri B. Mukherjee, learned counsel representing Sri Gadi Prayeen Kumar, learned Deputy Solicitor General of India, for respondent No.4.

2. With the consent, finally heard.

3. The challenge mounted in this petition is to the order dated 19.05.2023 (Annexure P1) passed by respondent No.1, wherein in exercise of power under Section 83 of the Central Goods and Services Tax Act, 2017 (for short "the CGST Act"), petitioner's bank account was provisionally attached.

4. Learned counsel for the petitioner advancing singular submission based on Sub-section (2) of Section 83 of the CGST Act by contending that on completion of one year's period from

19.05.2023, the said order lost its effect and accordingly, said order may be directed to be set aside on completion of one year from said date.

5. Faced with this, learned Standing counsel for respondent No.1 submits that although, there was internal correspondence between the departments for extending the period of provisional attachment, the fact remains that till date, no decision has been taken by any competent authority for extension of provisional attachment.

6. Sub Section (2) of Section 83 of the CGST Act reads as under:

“Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of order made under sub-Section (1).”

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7. The language employed in the said provision makes it clear that it is couched in a mandatory language and therefore, we find no difficulty in holding that impugned provisional attachment order dated 19.05.2023 cease to have effect on expiry of period of one year from the date of issuance of order i.e. 19.05.2023.

8. We hold accordingly. However, this order will not come in the way of respondents to take action against the petitioner, in accordance with law.

9. The Writ Petition is disposed of. No costs. Interlocutory applications, if any pending, shall also stand closed.

Sd/- P. PADMANABHA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Commissioner, Hyderabad GST Commissionerate, GST Bhavan, LB Stadium Road, Basheer Bagh, Hyderabad Telangana- 500 004
2. The Deputy Commissioner (ST II), Enforcement Wing, Commercial Tax Department, 0/0 Commissioner ST, Nampally, Hyderabad Telangana
3. The Branch Manager, ICICI Bank Limited, (IFSC Code. ICIC0006305), Himayat Nagar Branch, 3-6-907/2 to 9 and 908, Beside Bharat Petrol Pump, Hyderabad, Telangana-500 029
4. The Secretary, Ministry of Finance North Block, New Delhi-110 001
5. The Principal Secretary to Government, Revenue Department (Commercial Tax), Hyderabad, Telangana
6. One CC to Sri M Naga Deepak Advocate [OPUC]
7. One CC to Ms. Bokaro Sapna Reddy (SENIOR SC FOR CBIC) Advocate [OPUC]
8. Two CCs to Special Government Pleader, High Court for the State of Telangana. [OUT]
9. One CC to Sri Gadi Praveen Kumar, Deputy Solicitor General of India [OPUC]
10. Two CCs to GP For Commercial Taxes, High Court for the State of Telangana. [OUT]
11. Two CD Copies

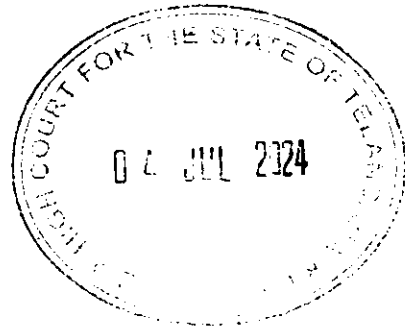
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HIGH COURT

SP,J
&
RRN,J

DATED: 02/07/2024



ORDER

WP.No.14809 of 2024

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

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4/7/24