

**HON'BLE SRI JUSTICE G.NARENDAR**  
**AND**  
**HON'BLE SRI JUSTICE NYAPATHY VIJAY**

**W.P.No.2299 of 2024**

**O R D E R:** *(Per Hon'ble Sri Justice Nyapathy Vijay)*

Heard Sri Anil Bezawada, learned counsel for the petitioner and learned Government Pleader for Commercial Tax and Sri Y.V.Anil Kumar, Central Government Counsel for respondent No.5

2. This writ petition is filed for the following relief:

‘..to issue a writ of Mandamus or any other writ direction or order declaring the Proceedings of the 1<sup>st</sup> respondent vide Order in Original Ref.No.ZD371023006973K for FY 2021-22 and Ref.No. ZD3710230069988 for FY 2022-23 (April'22 to November'23) (Annexure P-1), in confirming the demand of Rs. 1,37,25,345/- Interest of Rs.16,33,664/- and Penalty of Rs.13,72,535/- without considering the tax liability payments made by the Petitioner in the GSTR-3B returns for the subsequent tax period is illegal, arbitrary, without jurisdiction or authority of law, unconstitutional, against to the

principles of natural justice and contrary to various precedents laid down in the subject matter and violative of Article 14, Article 265, 300A and Article 19(1)(g) of the Constitution of India. Hence, the proceedings of the 1st Respondent are liable to be set aside to the extent aggrieved & prayed for remand back of the case for fresh adjudication.'

3. The Petitioner is a Proprietary registered under GST and is doing business in Tobacco products, confectionery and products of ITC etc. The Joint Commissioner (ST) Guntur-II Division had authorized the Assistant Commissioner (ST) Guntur-II to inspect the business premises of the petitioner and accordingly, the premises of the petitioner was inspected on 30.12.2022. The Books of account produced by the tax payer were examined and vide impugned proceedings dated 11.10.2023, the petitioner was held to be liable to pay an amount of Rs.1,67,31,544/- which is inclusive of CGST, SGST and CESS apart from penalty and interest for the period from 01.09.2021 to 31.12.2022.

4. The thesis writ affidavit runs into fifty pages wherein raising various grounds with regard to the incorrectness of the

impugned order, but no convincing answer was forthcoming from the counsel for the writ petitioner as to why the remedy of statutory appeal provided under section 107 of the Central Goods and Services Act, 2017 (for short 'the CGST Act') was not availed by the petitioner.

5. Therefore, this Court is not inclined to entertain the writ petition bypassing the remedy of appeal provided under section 107 of the CGST Act. The petitioner is at liberty to file an appeal and raise all the grounds before the Appellate Authority. As the petitioner claims that an amount of Rs. 92 lakhs was paid in December, 2022 which is part of the amount demanded under the impugned order and therefore the Appellate Authority may examine this aspect for exemption of pre-condition deposit of 10% of the amount for maintaining the appeal. If the Appellate Authority is satisfied the fact that the amount of Rs.92 lakhs paid by the petitioner is part of the demanded amount, then the pre-condition deposit of 10% shall not be insisted upon.

6. With the above observation, the writ petition is disposed of. No order as to costs. As a sequel, pending applications, if any, shall stand closed.

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**G. NARENDAR, J**

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**NYAPATHY VIJAY, J**

Date: 31.01.2024

KLP