



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3529]

WEDNESDAY, THE ELEVENTH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 26816/2024

Between:

1.MC WANE INDIA PRIVATE LIMITED, REP.BY ITS DIRECTOR
M.JAISON SUDHAR B-100, 300-EMC 3RD CROSS, SRI CITY,
ANDHRA PRADESH - 517 645 GSTIN 37AAHCM6465FIZ7) .

...PETITIONER

AND

1.THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL
SECRETARY DEPARTMENT OF REVENUE CT-1 SECRETARIAT,
VELAGAPUDU, GUNTUR DISTRICT ANDHRA PRADESH

2.THE COMMISSIONER, STATE TAXES DABAGARDENS CIRCLE,
VISHAKAPATNAM -I DIVISION ANDHRA PRADESH - 530 020

3.THE ASSISTANT COMMISSIONER ST, SRICITY, GUDUR

...RESPONDENT(S):

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 topleased to issue a Writ of MANDAMUS or any other appropriate writ, order or direction under Article 226 of the Constitution of India, declaring the action of the Respondent, more particularly Respondent No.3, in passing the impugned Refund Rejection Order in Form RFD-06 dt. 16.08.2024 in Rejection Order No.ZD370824012217H as illegal, arbitrary and in contravention of the CGST.APGST.IGST Act and Rules and to consequently

set aside the same and further direct the 3rd respondent to grant refund of Input Tax Credit as claimed by the petitioner in its Refund Application bearing ARN.AA370224012123X dt.09.02.2024 and consequential refund application bearing ARN No.AA37032401108M dt.13.03.2024 and pass

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 the, operation and effect of the impugned Refund Rejection Order in Form RFD-06 dt. 16.08.2024 in Rejection Order No.ZD370824012217H passed by Respondent No. 3 and to restrain the Respondents, their subordinates, servants and agents from taking any coercive actions towards recovery of the amounts challenged in the present petition, pending disposal of the above writ petition and to pass

IA NO: 1 OF 2025

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 receive the counter copies on record by allowing the leave petition in the above writ petition and pass

Counsel for the Petitioner:

1.MOGULURU ISWARYA

Counsel for the Respondent(S):

1.GP FOR COMMERCIAL TAX

The Court made the following Order:

(per Hon'ble Sri Justice R. Raghunandan Rao)

The petitioner herein is in the business of goods in the nature of iron and sales and is also involved in the export of services. The petitioner had moved an application for refund of certain Input Tax Credit, on 09.02.2024. Initially, this application for refund was returned on the ground of certain deficiencies in the application. These deficiencies were rectified and an application for refund was re-filed on 13.03.2024.

2. The 3rd respondent, however, rejected the said application, by an order of rejection, dated 16.08.2024. In this order of rejection, the 3rd respondent took the stand that the said application was beyond the period of two years, stipulated under Section 54 of the CGST Act, 2017, from the relevant date and as such the application itself was not maintainable.

3. Aggrieved by the said order of rejection, the petitioner has approached this Court, by way of the present Writ Petition.

4. It is the case of the petitioner that by virtue of the Judgment of the Hon'ble Supreme Court in the case of ***In re: Cognizance for extension of limitation***¹, had directed that the period from 15.03.2020 till 28.02.2022 would stand excluded for the purposes of limitation, as may be prescribed under a general law or a special law, in respect of judicial or quasi-judicial

¹ (2022) 3 SCC 117

proceedings. The petitioner would also rely upon a Notification, issued by the Central Board of Indirect Taxes and Customs, dated 05.07.2022. In this notification, the Board directed that while computing the period of limitation for filing a refund application, under Section 54 or Section 55 of the CGST Act, the period from 01.03.2020 to 28.02.2022, shall stand excluded.

5. The learned counsel would submit that there is no dispute between the 3rd respondent and the petitioner that the starting point for an application, under Section 54, in the present case, would be 29.08.2021. The petitioner contends that since the period from 01.03.2020 to 28.02.2022 should be excluded, on account of the directions of the Hon'ble Supreme Court as well as Notification No.13/2022 – Central Tax, the starting point for exclusion of limitation would be 28.02.2022. Since the period of limitation, under Section 54 would be 2 years from the relevant date, the last date for filing the application for refund would be 27.02.2024. The stand of the 3rd respondent has been that a period of six (06) months and three (03) days should be excluded only and by virtue of such exclusion, the extended date of limitation, for filing the application for refund, would be 03.09.2022 and as such the application is beyond time.

6. Apart from the aforesaid issue, the 3rd respondent also took the stand that even if the last date, for filing the refund application, is taken to be 27.02.2024, the application is not within the time as the actual date of filing of

refund application was 13.03.2024. The petitioner would dispute this contention also on the strength of Notification No.15/2021, dated 18.05.2021.

7. It is the admitted case of both sides that the relevant date, under Section 54, for the present case, is 29.08.2021. In the normal course, the application would have to be filed on or before 28.08.2023, inasmuch as the period of limitation, under Section 54, is two years from the relevant date.

8. The Judgment of the Hon'ble Supreme Court as well as the notification, mentioned above, clearly stipulate that the period from 01.03.2020 to 28.02.2022 should be excluded while including the period of two years mentioned in Section 54. In the present case, the period of limitation would commence only from 29.08.2021. However, this would mean that the period from 29.08.2021 to 28.02.2022 would have to be excluded. Once this period is excluded, the limitation would commence only from 28.02.2022. In such circumstances, the last date for filing the application would be 27.02.2024.

9. The 3rd respondent also took the stand that the application was actually filed on 13.03.2024. A perusal of the material placed before this Court would show that the application of the petitioner was filed on 09.02.2024. However, this application came to be rejected on account of certain deficiencies. These deficiencies were cleared and the petitioner re-filed the application on 13.03.2024. The Central Board of Indirect Taxes and Customs Board had issued Notification No.15/2021 – Central Tax, dated 18.05.2021

substituting Rule 90 (3) of the CGST Rules, 2017. The Rule which has now been inserted in Rule 90 (3) is:

*“Provided that the time period, from the date of filing of the refund claim in **FORM GST RFD-01** till the date of communication of the deficiencies in **FORM GST RFD-03** by the proper officer, shall be excluded from the period of two years as specified under sub-section (1) of Section 54, in respect of any such fresh refund claim filed by the applicant after rectification of the deficiencies.”*

10. This sub-rule excludes the time between the dates of filing of the refund claim and the date of communication of the deficiencies. The 3rd respondent, in the impugned rejection order, dated 16.08.2024, had excluded 25 days on account of this sub-rule. Once the said period of 25 days is taken into account, the filing of the application would have to be treated within time, inasmuch as the application was filed on 13.03.2024, while the last date, after excluding the 25 days, from 27.02.2024 would be 24.03.2024.

11. Viewed from any angle, it is clear that the application is filed within time. In such circumstances, the order of rejection of refund, dated 16.08.2024, is set aside and the matter is remanded back to the 3rd respondent to consider the application of the petitioner, in accordance with law and without going into the question of limitation.

12. Accordingly, this Writ Petition is allowed. There shall be no order as to costs.

As a sequel, pending miscellaneous applications, if any, shall stand closed.

R. RAGHUNANDAN RAO, J

T.C.D. SEKHAR, J

Date: 11.03.2026
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THE HON'BLE SRI JUSTICE R RAGHUNANDAN RAO

AND

THE HON'BLE SRI JUSTICE T.C.D. SEKHAR

WRIT PETITION No.:26816 of 2024

(per Hon'ble Sri Justice R. Raghunandan Rao)

11.03.2026

MJA