



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

[3529]

TUESDAY, THE THIRD 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 Nos.: 33250 of 2022; 17007, 10609, 10802, 12505, 25314
of 2023; 2856 of 2024; 12421 of 2025; 3694 of 2026**

WRIT PETITION NO: 33250/2022

Between:

1.M/S. P.VENUGOPAL NAIDU,, WORKS CONTRACTOR S/O. LATE. P.VENKATA SUBBAIAH NAIDU, AGED ABOUT 45 YEARS, OCC-BUSINESS, 6-7-567/301, SAI PRANEETHA REDDY NILAYAM, SRIPURAM COLONY, TIRUPATHI, TIRUPATHI -517501, ANDHRA PRADESH.

...PETITIONER

AND

1.UNION OF INDIA, REPRESENTED BY ITS SECRETARY, MINISTRY OF FINANCE, 4TH FLOOR, A-WING, SHASTRI BHAWAN. NEW DELHI 110001.

2.THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY TO GOVERNMENT, REVENUE (CT-I) DEPARTMENT, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT, ANDHRA PRADESH.

3.THE ASSISTANT COMMISSIONER ST, TIRUPATI -I CIRCLE, CHITTOOR DIVISION, CHITTOOR, SRI BALAJI DISTRICT.

4.THE EXECUTIVE OFFICER, TIRUMALA TIRUPATI DEVASTHANAMS,

TIRUMALA, TIRUPATI, SRI BALAJI DISTRICT, ANDHRA PRADESH

5.THE CHIEF ENGINEER, TIRUMALA TIRUPATI DEVASTHANAMS,
TIRUPATI, SRI BALAJI DISTRICT.

6.THE CHIEF COMMISSIONER OF STATE TAX, D.NO. 5-59, RK
SPRING VALLEY APARTMENTS, BANDAR ROAD, EDUPUGALLU
VILLAGE, KANKIPADU MANDAL, VIJAYAWADA, KRISHNA
DISTRICT -521144, ANDHRA PRADESH.

7.M/S TIRUMALA TIRUPATI DEVASTHANAMS, REP. BY ITS
EXECUTIVE OFFICER, TIRUMALA, TIRUPATI, SRI BALAJI
DISTRICT, ANDHRA PRADESH

...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 an appropriate writ, order or direction particularly in the nature of Writ of MANDAMUS (i) declaring the inaction on the part of the Executive Officer, TTD in not considering the representations made by the Petitioner to it either to pay the enhanced rate of 6 percent as levied by the GST authorities with penalty and interest or (ii) to give clarification pursuant to the letter addressed by the Executive Officer , TTD dated 22-04-2018 to the Chief Commissioner, State GST to grant necessary instructions and to refrain the Assistant Commissioner (ST), GST Department not to issue any further communication pursuant to the show cause notice dated 17-09-2022 as he is also a Government Official who has to wait for the instructions to be issued by the State GST Chief Commissioner and consequently to direct the Chief Commissioner to issue instructions accordingly or (iii) to direct the Executive Officer to pay balance amount of 6 percent along with interest and penalty as levied in the show cause notice (iv) and pass

IA NO: 1 OF 2022

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 grant stay directing the Assistant Commissioner (ST), GST not to proceed further with the show cause notice pending disposal of the writ petition and pass

IA NO: 2 OF 2022

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 vacate the interim Orders granted on 11.11.2022 in W.P No.33250 of 2022 in the interests of justice 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 extend the interim orders WP 33250/22 Dt.20/12/23 till the disposal of the writ petition as the Hon'ble Court was pleased to extend the same time and again, else the Petitioner would be put to serious loss and hardship.

Counsel for the Petitioner:

1.M V J K KUMAR

Counsel for the Respondent(S):

1.Y V ANIL KUMAR (Central Government Counsel)

2.GP FOR COMMERCIAL TAX

3.NVS PRASADA VARMA

The Court made the following Common Order:

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

All these Writ Petitions arise out of questions of rate of tax payable by contractors, who have executed work contracts for Tirumula Tirupati Devasthanams (TTD), between the period 01.07.2017 to 01.07.2022.

2. The petitioners herein, who are contractors, contend that they are liable to pay GST @ 12% from 01.07.2017 to 01.07.2022 and @ 18% thereafter. The GST Authorities, on the other hand, contend that the rate of tax remains 18% from 01.07.2022 onwards.

3. The main contention raised by the petitioners is that Notification No.11 of 2017, dated 28.06.2017, fixed the rate of GST, on contracts executed for TTD at 12%. This contention is disputed by the respondent-GST Authorities.

4. The GST Act came into force from 01.07.2017. The rate of tax payable on supply of goods or on supply of services is not stipulated under the Act. However, such rate of tax is stipulated, by way of notifications, issued from time to time. The first set of notifications, issued for this purpose, were Notification Nos.11 of 2017 & 12 of 2017, dated 28.06.2017. Notification No.11 of 2017 dealt with supply of goods, while Notification No.12 of 2017 dealt with supply of services. The relevant extract of Notification No.11 of 2017 would be S.No.03, which reads as follows:

| Sl.No. | Chapter, Section or Heading | Description of Service | Rate (per cent.) | Condition |
|--------|--|--|------------------------|-----------|
| 3 | Heading 9954 (Construction services) | (i) Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service) | 9 | - |
| | | (ii) Composite supply of works contract as defined in clause 119 of section 2 of Central Goods and Services Tax Act, 2017. | 9 | - |
| | | (iii) Construction services other than (i) and (ii) above. | 9 | - |

5. This notification prescribes GST @ 9% under the CST Act and 9% under the SGST Act, aggregating to 18%. Notification No.24 of 2017, dated 21.08.2017, r/w Notification No.20 of 2017, dated 22.08.2017, made certain changes to Notification No.11 of 2017. By virtue of these notifications, the rate of tax in relation to the aforesaid entry, in Notification No.11 of 2017, was reduced from 9% to 6%. This meant that the rate of tax under the CST would be 6% and the rate of tax under the SGST would be 6%, aggregating to 12%. Another change made, by Notification No.20 of 2017, was to restrict this reduced rate of 6% to supply made to Government, a local authority or Governmental authority, subject to conditions stipulated in these notifications. By Notification No.31 of 2017, dated 13.10.2017, the words "Government, a local authority or Governmental Authority" were substituted with the words "Central Government, State Government, Union Territory, a local authority, a Governmental authority or a Governmental entity". The terms 'Governmental authority' and 'Governmental entity' were defined in the following manner:

"(ix) "Governmental Authority" means an authority or a board or any other body,-

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by any Government, with 90 per cent. Or more participation by way of equity or control, to carry out any function entrusted to a Municipality under Article 243 W of the Constitution or to a Panchayat under Article 243 G of the Constitution.

(x) *“Government Entity” means an authority or a board or any other body including a society, trust, corporation,*

(i) set up by an Act of Parliament or State Legislature; or

(ii) established by any Government, with 90 per cent. or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority.”.

6. It is contended by the petitioners that TTD falls within the definition of ‘Governmental entity’. This is disputed by the respondents, who contend that the requirement of carrying out functions entrusted to a municipality or a panchayat, by Article 243W and Article 243G, respectively, of the Constitution of India, is not available, as TTD does not carry out such functions.

7. The definition of ‘Governmental Authority’ requires that a body which is sought to be recognised as governmental authority should fulfil the following conditions:

- 1) It should be an authority or a board or any other body.
- 2) It should have been set up by an Act of Parliament or the State Legislature, or
- 3) It can also be established by any Government.
- 4) A body, which meets the above requirements, should have 90% participation, by way of equity or control by the Government.

5) Such a body would also carry out functions which should be entrusted to a municipality, under Article 243W of the Constitution of India or to a panchayat, under Article 243G of the Constitution.

8. As far as a 'Governmental entity' is concerned, the following requirements need to be complied with:

- 1) It can be an authority, board or any other body, including society, trust or corporation.
- 2) It should have been set up by an Act of Parliament of the State Legislature, or
- 3) It can be established by any Government.
- 4) This body should be controlled by the Government, either by way of 90% equity or 90% control.
- 5) It should also be carrying out some functions entrusted by the Central Government, State Government, Union Territory or a local authority.

9. The TTD was originally established by way of an Act of the Legislature of the State of Madras in 1932. This Act, in turn, came to be repealed by way of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987. The provisions relating to TTD are contained in Chapter XIV from Sections 95 -131 of the Endowments Act, 1987. Section 96 of the Endowments Act, created a Board, which shall be

constituted by the Government and would be called a TTD Board. This board, under Section 97 of the Endowments Act, was set up for running the TTD. The Board is appointed by the Government, by virtue of Section 96 itself. Under Section 103, the Government has the power to suspend or remove the Chairman, or any member of the Board. Section 105 permits the Government to dissolve the Board itself, if it is satisfied that such dissolution is necessary. The Executive Officers and all higher authorities, functioning under the Board, are appointed by the Government. The resolutions passed by the Board are subject to review by the Government. All major actions of the TTD Board are sent for ratification to the Government. These provisions clearly demonstrate that it is the Government of Andhra Pradesh, which has 100% control over the TTD Board.

10. The learned Standing Counsel for TTD has also placed before us G.O.Ms.No.746, dated 02.06.2007 as well as G.O.Ms.No.747, dated 02.06.2007. In G.O.Ms.No.746, the Government has stipulated as under:

“8. Tirumala Hills area has been notified as a place of religious importance under Section 5 (1) of the Andhra Pradesh Panchayat Raj Act, 1994 read with Section 114 of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987. This effectively places the civic administration of the Tirumala Hills area in the hands of the Executive Officer who shall have the authority normally exercised by a gram panchayat, the Sarpanch, Executive Officer or Executive Authority thereof under the A.P.

Panchayat Raj Act, 1994. This special dispensation ensures that only spiritual and religious activity goes on in the seven hills area. No elections or political activity is permitted.”

11. As can be seen from the above extract, the civic administration of the Tirumala Hills Area is given to the Executive Officer, who shall exercise all the authority exercised by a Gram Panchayat or Executive Officer or Executive Authority under the provisions of the Andhra Pradesh Panchayat Raj Act, 1994. Article 243G of the Constitution of India stipulates certain functions that could be exercised by a Gram Panchayat, as stipulated in Schedule II. Schedule II of the Constitution enumerates various functions that can be carried out by a Gram Panchayat. By virtue of G.O.Ms.No.746, it is the TTD which would have to carry out these functions. In that view of the matter, TTD meets the requirement to be categorized as a Governmental Authority, in the definition set out above.

12. The TTD would also meet the requirement of Governmental entity, if it can demonstrate that it is carrying out any function entrusted by the State Government. G.O.Ms.No.746, in the extract placed above, subsequently entrusts the functions of Gram Panchayat on the Executive Officers of the TTD Board, who function under the control of the Board. In the circumstances, the TTD Board meets the requirement of Government entity also.

13. The learned counsel appearing for the petitioners have also sought to rely upon a ruling of the Authority for Advance Ruling, A.P., which

had held that TTD meets the above requirements of being treated as Government body or Government entity.

14. The learned Standing Counsel for the respondents sought to place reliance upon the ruling of the Authority for Advance Rulings for the State of Telangana, which had held that the TTD does not meet these requirements.

15. This Court does not wish to go into the question inasmuch as they are issues decided by the authority, which is subordinate to this Court and such authority cannot be cited before this Court.

16. The further question that remains before this Court is whether the reduced rate of 12% would be available to the petitioners even if TTD Board is treated as a Government entity or a Government authority. The notifications, relied upon by the petitioners, would show that such reduced rate of tax would be available only if the works, which have been executed by these petitioners, are falling within the nature of works stipulated under the notifications. The question of whether such works meet these requirements is a question of fact which has not been gone into by the authorities nor can this Court go into these questions while exercising its jurisdiction under Article 226 of the Constitution of India.

17. In the circumstances, it would only be appropriate that all these matters are remanded back to the respective Assessing Authorities to go into

the question of whether the works, executed by the petitioners, would be in the nature of works enumerated in the notifications.

18. Before parting with the cases, this Court would also make it clear that the finding of this Court that the TTD Board is a Government authority or a Government entity, is based on the provisions of the notifications and this finding shall not be treated as a finding that the TTD is a Government authority or a Government entity, for other purposes.

19. It may also be noted that the proceedings are at the stage of replying to show-cause notices in certain Writ Petitions and the Assessment orders have been challenged in some Writ Petitions. It also appears that no intimation has been issued in Form GST DRC-01A in some Writ Petitions. The details of the stages, at which the petitioners have approached this Court, are set out below:

| S. No | Writ Petition number | Name of the Writ Petitioner | Date of show cause notice issued (If challenged) | Date of assessment Order passed (If Challenged) |
|--------------|-----------------------------|------------------------------------|---|--|
| 1 | WP 33250 of 2022 | M/S. P.VENUGOPAL NAIDU | 17-09-2022 | - |
| 2 | WP 17007 of 2023 | M/S. B SREENIVASULU REDDY AND CO. | 17-03-2023 | - |
| 3 | WP 2856 of 2024 | RAMYA ENTERPRISES TPT | - | 24-05-2022 |

| | | | | |
|---|---------------------|---------------------------------------|------------|--|
| 4 | WP 3694 of 2026 | M/S. C JAGANNATHAM | - | 10-12-2025 |
| 5 | WP 10609 of 2023 | MARUTHI NAIDU POTTURI | 11-04-2023 | - |
| 6 | WP 10802 of 2023 | MADHAVA PALANI WORKS CONTRACTOR | 27-02-2023 | - |
| 7 | WP 12421 of 2025 | SHRI NARASIMHA REDDY MEDIREDDY | - | Appellate Order No ZD3703250131 32Y dated 11- 03-2025. Original Order vide Case Id DIN3728102385 819 |
| 8 | WP 12505 of 2023 | SURI BABU VEERAVASARAPU | 20-02-2023 | - |
| 9 | WP 25314 of 2023 | M/S. N. BHASKAR ENTERPRISES | 17-09-2022 | - |

20. In the circumstances, these Writ Petitions are disposed of, with the following directions:

- 1) W.P.Nos.33250 of 2022; 10609, 10802, 12505, 17007 & 25314 of 2023 are disposed of and the matters are remanded back to the respective Assessing Authorities to give an opportunity of hearing to the petitioners, in replying to the show-cause notices, issued to the petitioners/ communications given to the petitioners, as to whether the

works executed by the petitioners are in the nature of works enumerated in the notifications.

- 2) The W.P.Nos.2856 of 2024; 12421 of 2025 And 3694 of 2026 are disposed of, setting aside the orders of assessment and order-in-appeal and the matters are remanded back to the Assessing Authorities by determining whether the petitioners are entitled to the benefit of rate of tax, in accordance with the provisions of the notifications issued in this regard.

21. As can be seen, the notifications granting reduced rate of tax came into effect only from 13.10.2017, as far as the present cases are concerned. The exercise that would be carried out by the authorities would be in relation to the period 13.10.2017 till 01.07.2022. It is further clarified, that the petitioners would be entitled to claim reimbursement of the differential rate of GST, from TTD, when the contract provides for reimbursement from TTD. 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:03.03.2026
MJA

142

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

**WRIT PETITION Nos.: 33250 of 2022; 17007, 10609, 10802, 12505, 25314
of 2023; 2856 of 2024; 12421 of 2025; 3694 of 2026**

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

Date:03.03.2026

MJA