

APHC010628112023



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

[3529]

TUESDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 32800/2023

Between:

1.M/S. LEELA SAI RAM TRADING, REP. BY ITS
PROPRIETOR, MR. JALDU KALYANA RAMA, S/O.RAMA
RAO, R/O D.NO.15/551-B2, EDEPALLI, MACHILIPATNAM,
KRISHNA DISTRICT.

...PETITIONER

AND

1.THE STATE OF ANDHRA PRADESH, REP. BY ITS
PRINCIPAL SECRETARY, REVENUE (CT)
DEPARTMENT, VELAGAPUDI, AMARAVATHI, GUNTUR
DISTRICT.

2.THE COMMERCIAL TAX OFFICER, MACHILIPATNAM
CIRCLE, VIJAYAWADA, KRISHNA DISTRICT.

3.THE ADDITIONAL COMMISSIONER ST, APPELLATE
AUTHORITY, MOGALRAJPURAM, VIJAYAWADA,
KRISHNA DISTRICT.

...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, Order or direction more particularly one in the nature of Wirt of Mandamus declaring the Impugned Penalty Order passed by 2nd Respondent in CTD ORDER NO.AO. ZH3708200D61711 Ref.No.37784788050 Dated 27-08-2020 levying penalty of Rs.50,52,278 /- for the tax periods 01-06-2014 to 30-06-2016 (June-2014 to June- 2016) as confirmed by 3rd Respondent in A.O.No.DIN3727042354765 Appeal No.VJA-I/21/2020-21 Dated 27-04-2023, which is illegal, irregular, arbitrary, against to the Principles of Natural Justice. contrary to law, in violation of the Provisions of APVAT Act, 2005 and its Rules made there under and consequently set aside the Penalty orders passed by Respondent Nos. 2 and 3 and pass

IA NO: 1 OF 2023

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 pleased to grant stay of collection of balance disputed penalty of Rs.43,21,005/- [out of Rs.50,52,278/, the Petitioner paid Rs.6,31,550/- + Rs.1,00,000/- total Rs.7,31,550 /-] in pursuance of Penalty Order passed by 2nd Respondent in CTD ORDER NO.AO. ZH3708200D61711 Ref. No.37784788050 Dated 27-08-2020 levying penalty of Rs.50,52,278 /- for the tax periods 01-06-2014 to 30-06-2016 (June-2014 to June- 2016) as confirmed by 3rd Respondent in A.O.No.DIN3727042354765 Appeal No.VJA-II/21/2020-21 Dated 27-04-2023 pending disposal of Writ Petition and 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 pleased to receive the additional material papers as part of the record for consideration and pass

IA NO: 2 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.NARASIMHA RAO GUDISEVA

Counsel for the Respondent(S):

1.GP FOR COMMERCIAL TAX

The Court made the following:

HON'BLE SRI JUSTICE RAO RAGHUNANDAN RAO

AND

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

WP No.32800 OF 2023

ORDER:- *(Per Hon'ble Sri Justice T.C.D. Sekhar)*

1. The petitioner is a registered dealer under the AP VAT Act, 2005 on the rolls of the 2nd respondent. The petitioner firm is a proprietary concern engaged in the business of purchase and sale of iron and steel. The 2nd respondent passed penalty order dated 27.08.2020 invoking Section 55(2) of AP VAT Act for the period June, 2014 to June, 2016 on the ground that the petitioner had involved in bill trading by producing false tax invoices and way bills for accommodating its buyers to claim Input Tax Credit (ITC) on the strength of the said false tax invoices and way bills.

2. Aggrieved by the order of penalty dated 27.08.2020, the petitioner filed appeal before the 3rd respondent and after hearing the sale tax practitioner for the petitioner, the 3rd respondent by impugned order dated 27.04.2023 dismissed the

appeal. Questioning the said order, the present writ petition is filed.

3. Heard Sri G. Narendra Chetty appearing for Sri Narasimha Rao Gudiseva, counsel for the petitioner and Sri Manava Venkata Krishna Rao, Government Pleader for Commercial Taxes.

4. Perused the record.

5. The counsel for the petitioner would submit that during the Tax periods in question, the petitioner had purchased Iron and Steel from the registered dealers, M/s. Adithya Steel Rolling Mill (Pvt.) Ltd., Visakhapatnam and M/s. REC Ispat Pvt. Ltd., Visakhapatnam for Rs.5,04,27,963/-. Accordingly, the petitioner paid Tax amounting to Rs.25,21,398/- towards the purchases made by it.

6. It is the further case of the petitioner that in turn the Iron and Steel was sold to the registered dealers, M/s. Sri Srinivasa Bangaramma Steel Industries Pvt., Ltd., Vizianagaram and M/s. Sidhvin Agro Products Pvt., Ltd., Paritala. He would further submit that the petitioner firm filed returns during the relevant periods by duly disclosing the purchases and sales and

claimed Input Tax Credit of Rs.25,21,398/- as per Section 31 of AP VAT Act. It is further contended that the petitioner also disclosed output tax in form VAT 200 returns. It is further contended that without properly appreciating the case of the petitioner, the 2nd respondent has erroneously passed order of penalty under Section 55(2) of AP VAT Act, 2005. He would further submit that the 3rd respondent has dismissed the appeal by rejecting all the grounds raised therein.

7. It is further case of the petitioner that, the petitioner firm made payments through bank transfer to its sellers and accepting the transactions in question, the respective territorial officers finalized their assessments. It is further contended that in such circumstances, the respondents ought not to have passed the order under challenge inasmuch as without properly appreciating the facts put-forth by the petitioner and without cross verifying with the returns of its sellers.

8. On the other hand, the 3rd respondent filed counter affidavit denying the averments made in the affidavit filed in support of the writ petition, *inter alia* contending that there was no movement of goods taken place in respect of sales made to M/s.

Sidvin Agro Products Ltd., Paritala, as per the information obtained from the Tollgate data from Kalaparru Toll Plaza. It is further contended that the respondents have identified mismatch in sale bills, way bills and lorry numbers. It is further case of the respondents that cross check reports were also received from the respective territorial officers, which would reveal that certain transactions of the petitioner were not genuine. Further, it is contended that the petitioner sold Iron and Steel to M/s. Sidvin Agro Products Ltd., immediately after their purchase from M/s. RAC Ispat Nigam Ltd., but from the way bill data and records, it is noticed that the same vehicle has been used by another firm M/s. AMR India Ltd., for transporting goods from Polavaram to Visakhapatnam. It is further contended that the petitioner is involved in the bill trading by issuing false invoices, so as to accommodate his purchasers to claim Input Tax Credit and prayed to dismiss the writ petition.

9. On perusal of the record, it is evident that before passing the penalty order, the assessing authority after verification of e-way bill data in VATIS, it was found that out 54 sale transactions 32 are covered by e-way bills and rest of the transactions are treated as bogus transactions. Further, the

assessing authority also obtained reports from the concerned territorial jurisdictional authorities and found that the petitioner is involved in issuance of false tax invoices, so as to enable its purchasers to claim Input Tax Credit. It is apparent on record that the petitioner is in the habit of issuing fake and false tax invoices willfully without there being any transactions and thereby allowing the purchasers to claim Input Tax Credit. The said action of the petitioner is liable to pay penalty of 200% of tax shown on the false invoice. Therefore, this Court does not find any illegality in invoking Section 55 (2) of AP VAT Act, 2005.

10. Further, upon verification of movement of goods, it was noticed that the lorry bearing Registration No.AP16V 7337 claimed to be transported the goods from petitioner to its purchasers and the same lorry had been used by another firm M/s. AMR India Ltd., at 05:11 pm on 09.01.2016 for transportation of goods from Polavaram, Tuni to Visakhapatnam. It is the specific case of the petitioner that it purchased the goods and the same were sold at 06.09 pm on 19.01.2016 to its purchasers and the goods were transported in the above said lorry. Further, it is neither practicable nor possible to reach a distance of 245 km from Polavarm to Visakhapatnam within 58 minutes, inasmuch as

the lorry bearing Registration No.AP16V 7337 was engaged at 05:11 pm for transportation of goods by M/s. AMR India Ltd., and the same lorry said to have been engaged by the petitioner's firm at 06:09 pm. From the above, it is evident that the petitioner camouflaged with the authorities by involving in bill trading, without actual movement of goods. The cross verification reports sent by the respective territorial authorities would also reveal that the transactions of the petitioner are bogus.

11. Though, the petitioner contended that the assessing authority and appellate authority did not properly appreciate the case of the petitioner, the same cannot be accepted for the reason that the respondents after thoroughly verifying from the concerned territorial authorities have come to the conclusion that the petitioner has involved in bill trading. Further, the petitioner did not offer any explanation either before the primary authority or before the appellate authority with regard to transporting the goods in lorry bearing Registration No.AP16V 7337. In the absence of any explanation, the contention of the petitioner cannot be believed and the same is hereby rejected.

12. For the foregoing reasons, this Court does not find any merit in the writ petition and accordingly the same is dismissed. No order as to costs.

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

JUSTICE RAO RAGHUNANDAN RAO

JUSTICE T.C.D. SEKHAR

25.11.2025
DR

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THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

AND

THE HONOURABLE SRI JUSTICE T.C.D. SEKHAR

WP No.32800 of 2023
Date 25.11.2025

DR