APHC010183012025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3526]**
(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE

PRESENT
THE HONOURABLE SRI JUSTICE NINALA JAYASURYA
AND
THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No.9429 of 2025

Between:

1. M/s Gajapati Nagaram PACS Limited, 5-93, Gajapati Nagaram, Vizianagaram - 535 270, Andhra Pradesh represented by its Chief Executive Officer, Mr. Domana Narayana Rao, S/o Mr.Surya Narayana Domana.

...Petitioner

AND

1. The Principal Commissioner of Income Tax, Visakhapatnam, 2nd Floor, Aayakar Bhavan, Daba Gardens, Visakhapatnam - 530 020, Andhra Pradesh, and others.

...Respondents

Counsel for the Petitioner:

1. A V A SIVA KARTIKEYA

Counsel for the Respondents:

1.

This Court delivered the following ORDER: (*per* NJS,J)

Heard Mr.A.V.A.Siva Kartikeya, learned counsel for the petitioner. Also heard Mr.Vamsi Krishna Bodapati, learned Junior Standing Counsel representing Mr.Anup Koushik Karavadi, learned Senior Standing Counsel for the Income Tax Department.

2. The writ petition is filed seeking the following relief:

> "… … *to issue a Writ of Mandamus or any other appropriate Writ, Order or Direction, declaring the order passed by the 1st Respondent, vide DIN and Letter No.ITBA/COM/F/17/2024-25/1067873080(1), dated 22.08.2024 in directing the petitioner to pay 15% of the disputed demand, pending disposal of the appeal of the petitioner before the 1st Appellate Authority, i.e., the 4th Respondent herein, for the Assessment Year 2019 - 20, as arbitrary, illegal, barred by limitation, bad in law, void-ab-initio, 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 Sec 148A of the Income Tax Act, 1961, and to consequently set aside the same in the interests of justice*."

3. The learned counsel for the petitioner, while making submissions with reference to various legal contentions raised in the writ affidavit, submits the circumstances under which the petitioner society could not file its return of the tax in time. He submits that the order passed by the respondent No.1 directing the petitioner to pay 15% of the demanded amount, without considering the case of the petitioner, is not sustainable. He states that due to financial constraints, even the instalments granted by the respondent No.1 were not paid. He also submits that in similar circumstances a Coordinate Bench of this Court vide order dated 31.12.2024 in Writ Petition No.27342 of 2024 was pleased to dispose of the same with a direction to the Appellate Authority to dispose of the appeal within a period of six months and that during the pendency of the appeal, the Authorities shall not insist for the payment of the instalments granted towards the outstanding amount. The learned counsel submits that in fact against the demands raised by the Assessing Authorities several writ petitions were filed and while entertaining the said writ petitions, interim orders were granted.

4. Whereas, the learned Junior Standing Counsel for the respondent Department submits that it is not the case of the writ petitioner that it is not capable of paying the instalment amounts and further that having

availed the remedy of appeal, the writ petitioner is not justified in filing the writ petition.

5. Though the learned counsel for the petitioner raised several legal contentions and it is also not in dispute that several writ petitions challenging the demands raised by the Assessing Authorities were entertained, in the light of the orders passed in Writ Petition No.27342 of 2024, dated 31.12.2024, this Court is inclined to dispose of the writ petition on similar lines.

6. The respondent No.4–Appellate Authority shall dispose of the appeal preferred by the writ petitioner within a period of six months from the date of receipt of a copy of this order. Pending disposal of the appeal, no action to collect the outstanding tax demand/instalments shall be initiated and the liability of the petitioner, if any, shall be subject to the decision of the Appellate Authority, in the appeal on merits. The petitioner is at liberty to file additional material, if any, before the Appellate Authority and it is needless to state that before passing orders as indicated above, the petitioner shall be afforded an opportunity of hearing.

7. With the above directions, the writ petition is disposed of. No order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

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NINALA JAYASURYA,J

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TARLADA RAJASEKHAR RAO,J

April 16, 2025
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