HON'BLE SRI JUSTICE U.DURGA PRASAD RAO
AND
HON'BLE SRI JUSTICE T. MALLIKARJUNA RAO

WRIT PETITION Nos.11291 of 2023 and 11292 of 2023

COMMON ORDER: ***(per UDPR,J)***

Heard Sri Varun Byreddy, learned counsel for the petitioner and learned Government pleader for respondents.

2. The petitioner is common in both Writ Petitions and his grievance is identical.

3. His Grievance is that 2nd respondent has recovered demanded CGST for the period of March, 2018 and March 2019 concerning to the Writ Petition No.11291/2023 and 11292/2023, inspite of the fact that as against the original assessment order, the petitioner has filed appeals before the 4th respondent under Section 107 of APGST Act, 2017 by depositing the statutory amount and by virtue of Section 107 (7) of the GST Act deemed stay has came into force.

4. Learned counsel for the petitioner referred the common Order in W.P.No.8255 of 2023 and batch to contend that in similar circumstances this court passed order and allowed the Writ Petitions

and directed the 2nd respondent to refund the amount recovered from the account of the petitioner except 10% of the amount of the demanded tax which was deposited for filing the appeals.

5. On a perusal of the common order in Writ Petition No.8255 of 2023 and batch, this Court finds that the said order applies with all its fours as a number of writ petitions were allowed declaring the action of respondents in recovering the impugned demanded amount as illegal and opposed to Section 107 (7) of APGST Act, 2017 and consequentially directed the respondents to refund the amount recovered from the account of the petitioner except 10% of the demanded tax which was deposited by the petitioner while filing the appeals before authority.

6. It is to be noted that repeatedly such type of collection of the tax by way of adjusting the amount is being made by the concerned department officials inspite of the fact that deemed stay is in operation under Section 107 (7) of the APGST Act. Before embarking upon the such mode of the collection of tax they must be cautious of the relevant statutory provisions.

7. Accordingly these Writ Petitions are allowed and respondents are directed to refund the amount recovered from the petitioner except 10% of the amount already deposited by the petitioner. No order as to costs.

Miscellaneous petitions, if any, pending in these cases, shall stand closed.

U. DURGA PRASAD RAO, J

T. MALLIKARJUNA RAO, J

03.05.2023
KKV