APHC010162312023

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3488]**
(Special Original Jurisdiction)

WEDNESDAY,THE FOURTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION Nos.8350, 8532, 12519, 13889, 13977, 15291, 16403, 17244, 19153, 19197, 19285, 20023, 20055, 20272, 20273, 20280, 20287,20396, 20471, 20473, 20619, 20624, 20757, 20806, 20887, 20890, 20893, 20960, 20964, 21368, 21370, 22222, 22385, 22651, 23992, 26568&26710 of 2023

Between:

M/s. Adilaxmi Industries **...PETITIONER**

AND

Commercial Tax Officer and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. SRINIVASA RAO KUDUPUDI

Counsel for the Respondent(S):

1. GP FOR COMMERCIAL TAX

The Court made the following Common Order: *(per Hon'ble Sri Justice* R. Raghunandan Rao*)*

All these Writ Petitions are being disposed of by way of this Common Order as they raise similar questions of fact and law.

2. Heard Sri Srinivasa Rao Kudapudi, learned counsel for the petitioners and the learned Government Pleader for Commercial Tax.

3. The petitioners, in all these cases are rice millers who are involved in the business of milling of rice and selling the said rice and broken rice to persons within the State and outside the State. They are registered under the Central Sales Tax, Act 1956 [for the "the CST, Act"]. The sales, in the present set of Writ Petitions, relate to sales undertaken under the CST, Act. The normal rate of tax payable by a dealer selling goods under the CST, Act would be 4/5% (The rate of 4% was increased to 5% on 15.09.2011). However, the dealers are permitted to pay tax, under the CST, Act, at a concessional rate of 2% if they were able to produce C-Forms issued by their purchasers affirming that the said goods would either be consumed by the purchasers or would be resold by the purchasers in their respective States.

4. A large number of rice millers and persons dealing with rice had represented to the Government that they were facing immense difficulties in obtaining C-Forms from their purchasers in other States as some of the States had exempted the purchase of sale of rice from tax etc. The Government, after considering such representations had issued a series of memos waiving payment of tax at the full rate and permitting payment of tax at the rate of 2%, even in cases where necessary C-Forms was not produced before the assessing officers. The Government, had initially issued a Memo.No.26197/CT-II(1)/2013, dated 10.05.2016. The relevant paragraph No.2 of the said memo reads as follows:-

> *"Paragraph No.2:-Government, after careful consideration of the request and in pursuance of the resolution of the Council of Ministers in the reference 4th cited, hereby order to waive the tax payable under CST Act over and above 2% in the absence of C-Forms till 31.05.2014, only for those Rice Millers and*

dealers in Pulses &Dalls, who remit the tax completely as per the provisions of the CST Act for the period from 01.06.2014 to 31.12.2015 before 30.06.2016 after getting their assessments completed expeditiously. The waiver shall be subject to production of Lorry Receipts/Railway Receipts, CST waybills, proof of exit through the last notified check-post in Andhra Pradesh and proof of receipt of sale consideration from the buyers to prove that the goods were sold to the dealers in other states in the course of inter-state trade. The waiver is not applicable to those Rice Millers and dealers in Pulses &Dalls who have defaulted in payment of even 2% tax. Taxes already paid shall not be refunded under any circumstances."

5. Subsequently, the Government of Andhra Pradesh again issued Memo No.26197/CT-II(1)/2013, dated 27.09.2016, wherein the terms and conditions for grant of waiver were set out. The relevant part of the said memo reads as follows:

"Considering their representations and in pursuance of Resolution No.693/2016, Dt.24.08.2016 of the Council of Ministers, Government, in partial modification of the terms and conditions set out in the waiver orders issued in the reference 5th cited, hereby order to waive the tax payable under the Central Sales Tax (CST) Act over and above 2% in the absence of "C"-Forms by Rice Millers and the dealers in Pulses &Dalls till 31.05.2014, subject to the following terms and conditions:

i) The waiver is applicable only to those dealers who remit the tax completely as per the provisions of the CST Act for the period from 01.06.2014 to 31.12.2015 before 31.12.2016 after getting their assessments completed.

ii) The waiver shall be subject to production of lorry receipts/railway receipts and CST way bills.

iii) The waiver shall also be subject to production of proof of exit through the last notified check-post in Andhra Pradesh or production of ledger account or day book entry relating to payment of charges for transporting the goods to other States.

iv) The waiver shall not be applicable to those dealers who have defaulted in payment of even 2% tax.

v) Taxes already paid shall not be refunded under any circumstances."

6. The Government of Andhra Pradesh again issued a Memo.No.REV-35024/37/2016-CTII, dated 09.03.2017. Under this memo, the cutoff date for completion of assessments for the period from 01.06.2014 to 31.12.2015 was extended till 30.06.2017. The Government again issued another Memo No.REV-35024/3/2017-CT-II, dated 05.09.2018 extending the cutoff date from 30.06.2017 to 30.09.2018. These memos also stipulated that

the terms and conditions set out in the memo dated 27.09.2016 shall remain applicable for obtaining waiver of tax.

7. The petitioners, herein, who are registered dealers with the Commercial Tax Officer, Peddapuram Circle, Peddapuram, Commercial Tax Officer, Ramachandrapuram Circle, Ramachandrapram, Commercial Tax Officer, Alcot Gardens Circle, Rajahmundry, Commercial Tax Officer, Jagannaickpur, Kakinada and Commercial Tax Officer, Mandapeta in East Godavari District had approached these tax officers for waiver. The applications for such waiver appear have to be made in the year-2019 onwards. The tax authorities had issued endorsements, which are impugned in the present set of Writ Petitions, rejecting these applications for waiver. The said orders of rejection were passed essentially on the following grounds:-

i. The assessments for the relevant period had already been completed more than four years prior to the date of endorsement and as such, the tax authority is not in a position to re-assess the tax as Rules 14(A) sub-rules 8, 9 & 15 of the Central Sales Tax (Andhra Pradesh) Rules, 1957 [for the short “the CSTAP Rules”] do not permit a re-assessment beyond four years.

ii. The petitioners would be eligible for waiver of tax only if all the necessary documentary evidence stipulated under the aforesaid memos were furnished before the last cutoff date on 30.09.2018, whereas the petitioners have submitted their documents from the year 2019 onwards, along with their applications for waiver and as such, the documents cannot be looked into by the taxing authorities and consequently, no waiver can be granted.

iii. In some of the cases, the taxing authorities also took the view that the necessary documents which are necessary for grant of waiver had not been filed.

8. These endorsements are set out in the table below:

Sl. No	Name of the Petitioner	CTO circle	Writ PetitionNumber	Assessment Years	Endorsement /Order date
1	Chaitanya Modern Rice Mill	Ramachandrapuram	13889/2023	2011-12 to 2013-14	25.05.2023
2	Chaitanya Agro Industry	Ramachandrapuram	17244/2023	2011-12 & 2012-13	26.06.2023
3	Shree Gowthami Rice Industries	Ramachandrapuram	13977/2023	2010-11 to 2014-15	30.05.2023
4	Sri Lakshmi Ganapathi Rice Industries	Ramachandrapuram	22385/2023	2013-14	05.06.2023
5	Chandrika Rice Mill	Ramachandrapuram	22651/2023	2011-12 to 2014-15	05.06.2023
6	RamireddyAgro Industry	Ramachandrapuram	23992/2023	2011-12 to 2014-15	05.06.2023
7	Sri Venkateswara Rice Industries	Ramachandrapuram	20964/2023	2014-15	30.06.2023
8	Adilaxmi Industries	Peddapuram	8350/2023	2011-12 to 2013-14	27.03.2023
9	Sri Balaji Biled& Raw Rice Mill	Peddapuram	8532/2023	2011-12 to 2013-14	27.03.2023
10	Sri Venkateswara Rice Industries	Peddapuram	16403/2023	2011-12 to 2014-15	27.06.2023
11	RaghuramaRice Industry	Jagannaickpur circle	20396/2023	2013-14 & 2014-15	04.07.2023
12	Sri Ramalingeswara Modern Rice Mill	Jagannaickpur circle	20806/2023	2011-12 to2013-14	30.06.2023
13	Nallamilli Satyanarayana Reddy & others	KKD Port circle	15291/2023	2011-12 to 2014-15	17.05.2023
14	Sri Seetharama Raw & Boiled Rice Mill	Mandapeta	20624/2023	2012-13	28.06.2023
15	Sri Satyam Rice Mill	Mandapeta	20890/2023	2012-13 & 2013-14	30.06.2023
16	Jayalakshmi Panduranga Rice Mill	Mandapeta	20757/2023	2012-13	28.06.2023
17	AravindaAgro Industry	Mandapeta	20471/2023	2011-12 to 2012-13	31.05.2023
18	NS Reddy & Others	Mandapeta	19285/2023	2012-13 to 2014-15	19.06.2003
19	Konagalla Satyanarayana &Others	Mandapeta	20619/2023	2011-12 to 2013-14	28.06.2023
20	Sri Srinivasa Rice Mill	Mandapeta	20893/2023	2012-13 to 2014-15	28.06.2023
21	Satyanarayana Traders	Mandapeta	21368/2023	2011-12 to 2013-14	06.06.2023
22	Sri Sai Durga Foods	Mandapeta	22222/2023	2011-12 to 2014-15	30.06.2023
23	Satyakrishna Modern Rice Mill	Mandapeta	21370/2023	2011-12 to 2014-15	06.06.2023
24	Ashta Lakshmi Rice Industry,	Mandapeta	26568/2023	2011-12 to 2013-14	12.06.2023
25	Sri Venkateswara Boiled & Raw Rice Mill	Alcot Gardens, RJY	19197/2023	2011-12 to 2014-15	01.06.2023&07.07.2023
26	Padmasri Rice Mill	Alcot Gardens, RJY	20272/2023	2011-12 to 2014-15	07.07.2023
27	Surya Sri Rice Mill	Alcot Gardens, RJY	20280/2023	2011-12 to 2014-15	07.07.2023
28	Sri Buchiyyamma Rice Mill	Alcot Gardens, RJY	20473/2023	2011-12 to 2013-14	07.07.2023
29	MGR Rice Industries	Alcot Gardens, RJY	19153/2023	2011-12 to 2014-15	07.07.2023
30	Sri Venkateswara Rice Mill	Alcot Gardens, RJY	20273/2023	2011-12 to 2014-15	07.07.2023
31	Sri Srinivasa Rice Mill	Alcot Gardens, RJY	20287/2023	2011-12 to 2014-15	07.07.2023
32	Sri Sapthagiri Foods	Alcot Gardens, RJY	26710/2023	2011-12 to 2014-15	07.07.2023
33	Shir Aaurthor Cotton Modern Rice Mill	Alcot Gardens, RJY	20023/2023	2011-12 to 2014-15	01.06.2023
34	Sri Ramalingeswara Rice Mill	Alcot Gardens, RJY	20055/2023	2011-12 to 2013-14	07.07.2023
35	Sri Kodandarama Boiled & Raw Rice Mill	Alcot Gardens, RJY	12519/2023	2011-12	24.04.2023
36	Sri Kodandarama Boiled & Raw Rice Mill	Alcot Gardens, RJY	20887/2023	2012-13 & 2013-14	07.07.2023
37	Sri Venkateswara Rice Industry	Alcot Gardens, RJY	20960/2023	2012-13 to 2013-14	07.07.2023

9. Aggrieved by these endorsements, rejecting the applications for waiver, the petitioners have approached this Court, by way of the present set of Writ Petitions.

10. A decision has been taken in regard to these issues by this Division Bench by an order dated 07.08.2024 in W.P.Nos.23966 of 2023 & Batch.

11. Following the above said Judgment, these Writ Petitions are disposed of with the following directions:-

1. The Endorsements issued by the respective tax authorities, which are set out in the table above, are set aside.
2. The respective tax authorities, shall consider the applications of the petitioners afresh and grant waiver to those petitioners who are able to comply with the requirements of the documents set out in the memos.
3. This exercise shall be completed within a period of two (2) months from the date of receipt of this Order.
4. No coercive steps shall be taken against any of the petitioners, on the basis of the earlier assessment orders, until a decision on the grant of waiver is completed.

There shall be no order as to costs.

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

R. RAGHUNANDAN RAO, J.

HARINATH.N, J.

BSM

HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

AND

HONOURABLE SRI JUSTICE HARINATH.N

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

Date: 04.09.2024

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