

ITEM NO.40

COURT NO.7

SECTION XII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 27302/2025

[Arising out of impugned final judgment and order dated 03-09-2025 in WP No. 22461/2025 passed by the High Court of Andhra Pradesh at Amravati]

DEPUTY COMMISSIONER ST & ORS.

Petitioner(s)

VERSUS

WINGTECH MOBILE COMMUNICATIONS
(INDIA) PVT. LTD. & ANR.

Respondent(s)

Date : 06-10-2025 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE ATUL S. CHANDURKAR

For Petitioner(s) : Mr. N. Venkataraman, A.S.G.
Mr. Sahil Bhalai, AOR
Mr. Tushar Giri, Adv.
Mr. Siddharth Anil Khanna, Adv.
Mr. Ritik Arora, Adv.
Mr. Shivam Mishra, Adv.
Ms. Gulshan Jahan, Adv.
Mr. Gowtham Polanki, Adv.

For Respondent(s) : Mr. Balbir Singh, Sr. Adv.
Mr. Rohan Khare, Adv.
Mr. Priyam Bhatnagar, Adv.
Mr. Anmol Anand, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. We are not inclined to interfere with the order passed by the High Court. However, we record the statement of Mr. Balbir Singh, learned senior counsel given on instructions that the undertaking,

indicated in the order passed by the High Court, will be given and that the amount deposited in the bank shall remain unaltered.

2. With these observations, the Special Leave Petition stands disposed of.

3. Pending interlocutory application(s), if any, stands disposed of.

(JAYANT KUMAR ARORA)
ASTT. REGISTRAR-cum-PS

(NIDHI WASON)
COURT MASTER



IN THE HIGH COURT OF ANDHRA PRADESH

AT AMARAVATI

[3529]

(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 22461/2025

Between:

1. WINGTECH MOBILE COMMUNICATIONS (INDIA) PVT. LTD., SY
NO. 444, 19/12, 394, 388/2, 388/3C, 388/4, 392/18, 392/19, 436/1,
19,390, 399/1, ETC., EMC-II VIKRUTHAMALA VILLAGE,
YERPEDU MANDAL, TIRUPATI, ANDHRA PRADESH - 517526

...PETITIONER

AND

1. DEPUTY COMMISSIONER ST I, TIRUPATI - III CIRCLE,
TIRUPATI FIRST FLOOR - CT COMPLEX, NEW BALAJI
COLONY, TIRUPATI - 517501 ANDHRA PRADESH
2. ASSISTANT COMMISSIONER ST, TIRUPATI - III CIRCLE,
TIRUPATI FIRST FLOOR - CT COMPLEX, NEW BALAJI
COLONY, TIRUPATI - 517501 ANDHRA PRADESH
3. THE CHIEF COMMISSIONER OF STATE TAX, ANDHRA
PRADESH, KUNCHANAPALLI, GUNTUR DISTRICT - 522501
ANDHRA PRADESH
4. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS
SECRETARY, DEPARTMENT OF COMMERCIAL TAXES, A.P.
SECRETARIAT, VELAGAPUDI, GUNTUR - 522237 ANDHRA

PRADESH

5.HSBC BANK, CHENNAI BRANCH, THROUGH ITS BRANCH
MANAGER RAJALAKSHMI, NO 5 AND 7, CATHEDRAL ROAD,
TEYNAMPET, CHENNAI - 600004 TAMIL NADU

...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 or an Order or a Direction, more particularly one in the nature of Writ of Mandamus and A. Declare the actions of the First Respondent in issuing the impugned recovery notice dated 19.08.2025 under section 79(1)(c) of the APGST Act before the expiry of 90 days as without jurisdiction, arbitrary, illegal, unconstitutional and in violation of the settled principles of law and contrary to section 107(6) of the APGST Act and consequently, set-aside the same. B. Declare the actions of the Respondents No. 1 to 4 in realising the amount lying in the Respondent no. 5 bank pursuant to the impugned recovery notice dated 19.08.2025 as without jurisdiction, arbitrary, illegal, unconstitutional and in violation of the settled principles of law and consequently direct the respondents to forthwith refund the amount C. In the alternative, direct the Respondent/s to retain only 10percent of the disputed demand in terms of section 107(6) of the APGST Act (raised by way of an order dated 02.08.2025 under section 73(9) of the APGST Act) and permit the petitioner to set off the same for the statutory pre-deposit under Section 107(6) of the APGST Act and refund the balance to the Petitioner forthwith D. Declare the actions of the Respondents No.3 in issuing the provisional attachment order dated 17.07.2025 bearing RFN No. MA3707252000924T as without jurisdiction, arbitrary, illegal, unconstitutional and in violation of the settled principles of law and consequently set aside the same E. Declare the actions of

the Respondents No.3 in issuing the provisional attachment order dated 17.07.2025 bearing RFN No. MA3707252004243 as without jurisdiction, arbitrary, illegal, unconstitutional and in violation of the settled principles of law and consequently set aside the same and F. 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 to suspend the impugned recovery notice dated 19.08.2025 pending the final disposal of the writ petition 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 direct the respondents to forthwith refund the balance amount after retaining 10% of the disputed amount in terms of section 107(6) of the APGST Act pending the final disposal of the writ petition and pass

IA NO: 3 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 suspend the provisional attachment order dated 17.07.2025 bearing RFN No. MA3707252000924T pending the final disposal of the writ petition and pass

Counsel for the Petitioner:

1.D S SIVADARSHAN

Counsel for the Respondent(S):

1.GP FOR COMMERCIAL TAX

The Court made the following order:

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

The petitioner has been served with an order of assessment, dated 02.08.2025, in which Rs.244,63,28,470/- has been demanded. Earlier to this, a notice dated 17.07.2025 had been issued for provisionally attaching the bank account of the petitioner. Immediately, thereafter, the 1st respondent issued a recovery notice, dated 19.08.2025, under Section 79(1)(c) of the A.P. GST Act, for recovery of the said amount. On account of the said recovery notice which had also been sent to the 5th respondent-Bank, a sum of Rs.170 cores was paid out to the 1st respondent.

2. The petitioner, on account of the attachment of the bank account and on account of the fact that the entire amount available to the petitioner had been paid out to the 1st respondent, could not file an appeal. This was because, the petitioner was required to pay a sum of Rs.24.46 crores as the pre-deposit amount of 10% of the disputed tax. At that stage, the petitioner has approached this Court, by way of the present Writ Petition, seeking the following reliefs:

A) Declare the actions of the 1st respondent in issuing the impugned recovery notice dated 19.08.2025 under Section 79(1) (c) of

the APGST Act before the expiry of 90 days as without jurisdiction, arbitrary, illegal, unconstitutional and in violation of the settled principles of law and contrary to Section 107(6) of the APGST Act and consequently, set-aside the same.

B) Declare the actions of the respondents Nos.1 to 4 in realising the amount lying in the respondent No.5 bank pursuant to the impugned recovery notice dated 19.08.2025 as without jurisdiction, arbitrary, illegal, constitutional and in violation of the settled principles of law and consequently direct the respondents to forthwith refund the amount.

C) In the alternative, direct the respondent/s to retain only 10% of the disputed demand in terms of Section 107(6) of the APGST Act (raised by way of an order dated 02.08.2025 under Section 73(9) of the APGST Act) and permit the petitioner to set off the same for the statutory pre-deposit under Section 107(6) of the APGST Act and refund the balance to the petitioner forthwith;

D) Declare the actions of respondent No.3 in issuing the provisional attachment order dated 17.07.2025 bearing RFN No. MA 3707252000924T and RFN No.3707252004243 as without jurisdiction, arbitrary, illegal, unconstitutional and in violation of the settled principles of law and consequently set aside the same.

3. This Court, on 22.08.2025, had passed an interlocutory order leaving it open to the petitioner to file an appeal against the order of assessment, dated 02.08.2025, with a further direction that the requirement of payment of 10% of the disputed tax, shall be treated to have been complied, by adjusting an amount of Rs.24.4 crores, out of Rs.170 crores, which had been recovered under the order, dated 19.08.2025.

4. This Court had also directed the 3rd respondent-Chief Commissioner, to consider the representation of the petitioner, seeking refund of the amount of Rs.170 crores and for raising the attachment on the bank account of the petitioner, to be disposed of within a period of one week from the date of receipt of the order.

5. When the matter was called today, Sri Deepak Chopra, learned counsel for the petitioner has placed proceedings of the 3rd respondent, dated 01.09.2025, before us. In these proceedings, the 3rd respondent had revoked the provisional attachment orders of 16.07.2025 and 17.07.2025 along with the recovery order, dated 19.08.2025, subject to the following conditions and directions:

i) The attachment of HSBC Bank Current A/c.No.042-825786-001 is revoked, and the assessee is permitted to operate the said account. It is noted that the Department has already effected a partial recovery of

Rs.170 crores from this account under Section 79 of the APGST Act, 2017.

ii) The said recovery shall be deemed to include the statutory pre-deposit of 10 percent of the disputed tax, as mandated under Section 107(6) of the APGST Act, 2017, for the purpose of filing an appeal against the assessment order dated 02.08.2025.

iii) The attachment to the immovable property (land) and plant and machinery is revoked except immovable property located in (Survey No.217/P,220/P,221/P,222/P situated at Sri Balaji District, Renigunta Mandal, Kurukala Village, Andhra Pradesh, measuring 9.40 acre or 3.808 Hectares of land vide Provisional Attachment of property under section 83 vide CCSTs Ref.No.CIW/E1/300/2025 dated 02.08.2025 and third party attachment issued to M/s.Oppo Mobiles India Pvt. Ltd GSTIN:37AABC09247K1ZY) to facilitate completion of the proposed sale transaction.

iv) However, the assessee shall ensure that the sale proceeds, to the extent of the balance demand of approximately Rs.130 crores for the tax periods 2022-23 to 2025-26, are retained in its bank account in India until final disposal of all proceedings and appeals.

v) The assessee shall intimate to the jurisdictional officer, within 48 hours of receipt of the funds, the details of the sale transaction completed and the bank account in which the proceeds are deposited.

6. This Court has also been informed that the petitioner had preferred an appeal against the order, dated 02.08.2025, and the same has been taken on file. The order of the 3rd respondent, dated 01.09.2025, also states that the recovery of Rs.170 crores shall be deemed to include the statutory pre-deposit of 10% of the disputed tax as mandated under Section 107(6) of the A.P GST Act, 2017.

7. The contention of the petitioner is that the condition set out in the aforesaid order, requiring the petitioner to maintain a minimum balance of Rs.130 cores out of the sale proceeds of the property of the petitioner is arbitrary. It is contended that the said condition is clearly impermissible for various reasons. Firstly, the tax demand itself is Rs.244 crores and there cannot be requirement of maintaining Rs.130 crores balance while an amount of Rs.170 crores had already been recovered. Secondly, the provisions of Section 107 stipulate that there would be a deemed stay of recovery of disputed tax, once 10% of the said disputed tax has been paid. As such a payment has been made, the deeming provision would come into play and the authorities cannot

seek to recover any further money or take steps to restrain the petitioner in this regard. Thirdly, the petitioner itself had undertaken not to take any of the sale proceeds, obtained by the petitioner, from the sale of its assets, which are presently at the midway stage.

8. The Tax authorities attached the bank account of the petitioner on 16.07.2025 and 17.07.2025 under the provisions of Section 83 of the GST Act. On account of such attachment, the ability of the petitioner to make any payment or move any funds was totally restricted. Thereafter, an order of assessment was passed on 02.08.2025 raising a demand of approximately Rs.244 crores. The respondents then issued a recovery notice, dated 19.08.2025, and a sum of Rs.170 crores has been paid out under the said recovery notice. The request of the petitioner, for refund of this amount, on an undertaking of the petitioner that the refunded amount would be kept in the bank account of the petitioner and would not be taken out to India, till disposal of the appeal, was not considered by the 3rd respondent while passing the order, dated 01.09.2025.

9. Shorn of all these facts, the issue before us is whether the funds of the petitioner can be attached or in any manner kept under restraint by the authorities, after payment of 10% of the disputed tax has

been made, in the course of the filing of the appeal against the order of assessment.

10. We do not find any provision which would permit such a course of action once a deemed stay comes into play, under the provisions of Section 107 of the GST Act.

11. Another factor that needs to be taken into account is the undertaking of the petitioner to retain the refunded amount as well as any further sale proceedings in the bank account of the petitioner till the appeal is disposed of.

12. At this stage, the learned Government Pleader would contend that such undertakings have not been given and on account of non-furnishing of such undertakings, the 3rd respondent could not permit refund of the funds which had been taken away from the bank account of the petitioner.

13. To our mind, the undertaking which was sought to be given by the petitioner, was an undertaking not to take out the funds which would be returned to the petitioner. However, to ensure that the interests of the revenue are also safeguarded, it would be appropriate that the petitioner gives an undertaking to the 3rd respondent that the funds which would be refunded to the petitioner, would be kept in the account of the

petitioner till the disposal of the appeal, and subsequently, to give another undertaking to the effect that as and when sale proceeds are received, the same will be kept in the account of petitioner in such a manner that the petitioner maintains a minimum balance of Rs.245 crores, after adjusting the same against the sum of Rs.24.4 crores which is deemed to have been paid as pre-deposit under Section 107 of the GST Act.

14. In the circumstances, this Writ Petition is disposed of with the following directions:

1. The petitioner shall file an undertaking that the petitioner shall maintain all the amounts refunded by the 3rd respondent, out of Rs.170 crores, which had been recovered from the petitioner under the order dated 19.08.2025, till the disposal of the appeal filed by the petitioner against the order, dated 02.08.2025;
2. Upon such undertaking being furnished, the 3rd respondent shall pass necessary orders for release of the money recovered from the petitioner after retaining 10% of the disputed tax, required as pre-deposit, under Section 107 of the GST Act;
3. The petitioner, upon receipt of the sale consideration, referred to by the 3rd respondent, in the order dated 01.09.2025, shall give an undertaking that the petitioner shall keep the said sale proceeds in

the bank account of the petitioner so as to ensure that the minimum balance of Rs.221 crores is maintained till the disposal of the appeal;

4. The sum of Rs.221 crores is being fixed, as a sum of Rs.24 crores is already treated to be pre-deposit required under Section 107 of the GST Act and the aggregate of both these sums would be Rs.245 crores.

There shall be no order as to costs.

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

R. RAGHUNANDAN RAO,J

T.C.D.SEKHAR,J

RJS

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

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

WRIT PETITION No.22461 of 2025

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

Dt: 03.09.2025

RJS