

IN THE HIGH COURT FOR THE STATE OF TELANGANA

W.P. No. **17018** of 2025

BETWEEN:

M/S. NILGIRI ESTATES,
SECUNDERABAD, TELANGANA – 500 003

... PETITIONER

AND

THE ADDITIONAL COMMISSIONER OF CENTRAL TAX (APPEALS II)

AND OTHERS

... RESPONDENTS

RUNNING INDEX

Sl. No. (1)	Annexure (2)	Description of the documents (3)	Date of paper (4)	Date of filing (5)	Page No. (6)
1		Service Certificate	2.06.2025	2.06.2025	1
2		Court fee	...do...	...do...	2
3		Writ Petition	...do...	...do...	3-4
4		Annexure I & II	...do...	...do...	5-8
5		Affidavit & Verification	...do...	...do...	9-24
6		MATERIAL PAPERS		...do...	
7	P1	Copy of impugned OIA No. HYD-GST-SC-AP2-1123-24-25-GST	27.03.2025	...do...	25-36
8	P2	Copy of hearing intimations received through emails	29.01.2024	...do...	37-40
9	P3	Copy of Appeal, PH and withdrawal of appeal	& 18.02.2025 & 28.03.2025	...do...	41-63
10	P4	Copy of OIO No. 23/2024-25 (GST-Adjn)	19.04.2024	...do...	64-72
11	P5	Copy of reply	16.02.2024	...do...	73-84
12	P6	Copy of SCN bearing Ref. No. 46/2023-24	29.12.2023	...do...	85-88
13	P7	Copy of OIA No. HYD-GST-SC-AP2-291-24-25-GST	19.08.2024	...do...	89-96
14	P8	Copy of SCN bearing ref. No. 06/23-24	19.05.2023	...do...	97-117
15	P9	Copy of reply and additional submissions	31.07.2023 & 29.08.2023	...do...	118-130

16	P10	Copy of relevant extracts of GST Audit Manual, 2019 issued by CBIC		...do...	131-134
17	P11	Copy of interim orders in WP No. 11449 of 2024 and WP No. 17990 of 2024	22-10-24 11-7-2024	...do...	135-140
18	P12	Kranti Associates (P) Ltd. v. Masood Ahmed Khan (2010) 9 SCC 496.	8-9-2010	...do...	141-157
19	P13	Union of India v. Vicco Laboratories 2007 (218) E.L.T. 647 (SC)	26-11-2007	...do...	158-166
20	P14	Duncans Industries Ltd. v. CCE 2006 (201) E.L.T. 517 (SC).	22-8-2006	...do...	167-173
21	P15	Ambey Mining Pvt. Ltd. vs. Commissioner of State Tax, Dhurwa 2023 (76) G.S.T.L. 191 (Jhar.)	17-7-23	...do...	174-179
22	P16	Rays Power Infra Private Limited vs. Superintendent of Central Tax 2024 (84) G.S.T.L. 146 (Telangana) (Para 17)	28-2-24	...do...	180-183
23	P17	New Hanumat Marbles vs State of Punjab (2023) 5 Centax 75 (P&H.)	30.01.2023	...do...	184-185
24	P18	Suncraft Energy Pvt. Ltd. vs. Assistant Commissioner 2023 (77) G.S.T.L. 55 (Cal.) affirmed by Supreme Court as reported in 2024 (80) G.S.T.L. 225 (S.C.)	14-12-2023	...do...	186-
25	P19	Copy of interim orders in 1. WP No. 10187 of 2024, 2. WP No. 21532 of 2024, 3. WP No. 26763 of 2024	19.04.2024 & 22.08.2024 & 30.09.2024	...do...	187-192
26		Vakalat	2-5-24	...do...	193
27		Address Form	11	...do...	194

Date: 2.06.2025

Place: Hyderabad

Counsel for the Petitioner

3

MEMORANDUM OF WRIT PETITION
(Filed Under Article 226 of the Constitution of India)
IN THE HIGH COURT FOR THE STATE OF TELANGANA
(SPECIAL ORIGINAL JURISDICTION)

W.P. No. OF 2025

BETWEEN

M/s. Nilgiri Estates,

2nd Floor, 5-4-187/3 and 4, Soham Mansion,
MG Road, Secunderabad, Telangana – 500 003

Represented by Managing Partner,

Shri. Soham Satish Modi, S/o. Shri. Satish Modi,

Aged 56 years, R/O. Plot No. 280, Road NO. 25,

Jubilee Hills, Hyderabad – 500 034

.... **Petitioner**

-Vs-

1. The Additional Commissioner of Central Tax (Appeals II),
Hyderabad, GST Bhawan, Basheerbagh, Hyderabad - 500 004

2. The Assistant Commissioner of Central Tax,
Secunderabad GST Division, Salike Senate,
D. No. 2-4-416 & 417, Ramgopalpet, M.G. Road,
Secunderabad – 500 003

3. The Commissioner of Central Tax,
Secunderabad Commissionerate, GST Bhavan,
Basheerbagh, Hyderabad - 500 004

4. The Additional Commissioner of Central Tax,
Secunderabad GST Commissionerate, GST Bhavan,
Basheerbagh, Hyderabad-500 004

5. Union of India
Ministry of Finance,
Represented by its Secretary,
North Block, New Delhi-110 001

... **Respondents**

4

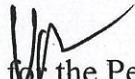
The address for service of all notices, summons, process, etc., to the above-named petitioner are that of his Counsel PV Prasad Associates (27435), V Gayatri Priya (26958), V Sai Amit (27346), P Venkat Prasad, Rashmi, Advocates, 3rd Floor, Inwinex Tower, Road No.2 Banjara Hills, Hyderabad, Telangana -500034.

The address for the purpose of service of notices on the Respondents is the same as mentioned in the cause title.

For all the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble High Court may be pleased to issue a writ, order, or direction more particularly one in the nature of a Writ of Mandamus

- a) Declaring that impugned Order-in-Appeal bearing OIA No. HYD-GST-SC-AP2-1123-24-25-GST dated 27.03.2025 passed by the Respondent No. 1 under the provisions of CGST/TGST Act, 2017 as being void, arbitrary, illegal, without jurisdiction, 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 to consequently set aside the same and/or pass such further or other order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case.
- b) Directing Respondent No. 1 to serve a copy of the appeal memo filed by Respondent no. 2 and afford an opportunity of being heard before any decision is taken on the appeal filed by Respondent no. 2 and/or pass such further or other order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Place: Hyderabad
Date: 20-05-2025


Counsel for the Petitioner



High Court for
Telangana, Hyderabad.

1) Date of Filing

2) Number of Pages

3) Court Fee

4) Date of Receipt

Full Signature and Seal
of the Secretary Officer

DISTRICT: HYDERABAD

IN THE HIGH COURT FOR THE
STATE OF TELANGANA

W.P.No. _____ of 2025

21888

MEMORANDUM OF WRIT PETITION

RYD: 21888/25
SR NO:
GET WISE BUNDLES ARE TO BE
FILED WITH ALL RELEVANT
DOCUMENTS
TIME 10 DAYS
COST Rs 25



FILED ON: 04 -2025

BP

FILED BY:

P V PRASAD ASSOCIATES (27435)
V GAYATRI PRIYA (26958)
V SAI AMIT (27346)
P VENKAT PRASAD
RASHMI
SHIVANI DIXIT

ADVOCATES

COUNSEL FOR PETITIONER



3	29.12.2023 & 19.05.2023 & 16.02.2024 & 19.04.2024	For the same period i.e. FY 2018-19, the Petitioner was served with a SCN bearing Ref. No. 46/2023-24 dated 29.12.2023 raising similar demands as raised in the previous SCN dated 19-05-2023. Accordingly, Petitioner filed its reply dated 16-02-2024 to the second SCN inter alia highlighting that same issues were already adjudicated and, in any case, the demands raised are factually incorrect. Respondent No. 2 passed OIO No. 23/2024-25 (GST-Adjn) dated 19-04-2024 dropping the similar demands raised previously and confirming to pay interest penalty for belated tax remittances (which was not part of the previous SCN).	10	4
4	19.04.2024 & 18.02.2025 & 28.03.2025 & 25.03.2025	To the extent agreed by the OIO dt 19-04-2024, the Petitioner preferred an appeal and attended the hearing on 18.02.2025 before Respondent No. 1 through authorised representative and subsequently withdrew the appeal on 28.03.2025 expressing intention to opt for the amnesty scheme under Section 128A of the CGST Act, 2017. The appeal was disposed vide OIA No. HYD-GST-SC-AP2-1062-24-25-GST dated 25-03-2025 (received through post on 19.05.2025). Petitioner was waiting for the application form to apply for settlement under amnesty scheme u/s. 128A of CGST Act, 2017.	11	5

5	27.03.2025 & 19.04.2024 & 27.03.2025	While the matter stood thus, to the Petitioner's utter surprise, another OIA No. HYD-GST-SC-AP2-1123-24-25-GST dated 27-03-2025 was passed ex parte by first Respondent dealing with the appeal filed by the Respondent No. 2 against the same OIO dt 19-04-2024 as per directions of Respondent No. 3 pursuant to the review proceedings u/s. 107(2) of CGST Act, 2017. Impugned OIA dt 27-03-2025 was received through post on 01.04.2025	11	6
6	27.03.2025	Petitioner has not received any copy of the appeal filed by the respondent department and there were only hearing intimations sent through email which were mistaken as it pertains to the appeal of the Petitioner. Accordingly, Petitioner could not participate in the respondent appeal proceedings. It was only after the receipt of impugned OIA dt 27-03-2025, petitioner got to know that separate appeal was filed by the respondent department.	11	7
7	27.03.2025	To the extent aggrieved with the impugned Order-in-Appeal bearing OIA No. HYD-GST-SC-AP2-1123-24-25-GST dated 27-03-2025 passed by the Respondent No. 1, which is without jurisdiction, passed in violation of principles of natural justice, contrary to facts, law, and evidence, apart from being contrary to a catena of judicial decisions and beset with grave and	12	8

		incurable legal infirmities, the Petitioner is filing this Writ Petition before this Hon'ble High Court invoking the extraordinary jurisdiction under Article 226 of the Constitution of India on the following grounds which are without prejudice to one another.		
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ANNEXURE.II

1. Under Article 226 of the Constitution of India.

Place: Hyderabad
Date: 2.05.2025


Counsel for the Petitioner

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)
WRIT PETITION No. OF 2025

BETWEEN

M/s. Nilgiri Estates,
2nd Floor, 5-4-187/3 and 4, Soham Mansion,
MG Road, Secunderabad, Telangana – 500 003
Represented by Managing Partner,
Shri. Soham Satish Modi, S/o. Shri. Satish Modi,
Aged 56 years, R/O. Plot No. 280, Road NO. 25,
Jubilee Hills, Hyderabad – 500 034

... Petitioner

-Vs-

1. The Additional Commissioner of Central Tax (Appeals II),
Hyderabad, GST Bhawan, Basheerbagh, Hyderabad - 500 004
2. The Assistant Commissioner of Central Tax,
Secunderabad GST Division, Salike Senate,
D. No. 2-4-416 & 417, Ramgopalpet, M.G. Road,
Secunderabad – 500 003
3. The Commissioner of Central Tax,
Secunderabad Commissionerate, GST Bhavan,
Basheerbagh, Hyderabad - 500 004
4. The Additional Commissioner of Central Tax,
Secunderabad GST Commissionerate, GST Bhavan,
Basheerbagh, Hyderabad-500 004
5. Union of India
Ministry of Finance,
Represented by its Secretary,
North Block, New Delhi-110 001

For NILGIRI ESTATES ... Respondents


Partner

AFFIDAVIT FILED ON BEHALF OF THE PETITIONER

I, Soham Satish Modi, S/o Shri Satish Modi, aged about 55 years, residing at Plot NO. 280, Road No. 25, Jubilee Hills, Hyderabad- 500 034, do hereby solemnly affirm and sincerely state as follows:

1. I am the Managing Partner of the Petitioner firm herein and as such I am well acquainted with the facts of the case. I am authorized to file this affidavit on behalf of the Petitioner.

Factual background:

2. The Petitioner is *inter alia* engaged in the business of construction & sale of villas and is duly registered under GST vide GSTIN No. 36AAHFN0766F1ZA. The Petitioner had been regularly discharging GST and filing the periodical returns along with annual returns.
3. The Petitioner's books were subjected to Audit for the period 2017-18 to 2019-20 and was served with a Show Cause Notice (SCN) bearing ref. No. 06/23-24 dated 19.05.2023. In response, a reply was furnished vide submissions dated 31.07.2023 and additional submissions dated 29.08.2023 (Copies enclosed as **Annexure-P 8 & P 9**). This was followed by passing of an Order-in-Original bearing OIO No. 28/2023-24(Sec-Adjn-ADC)(GST) dated 12.10.2023 confirming the demand. Aggrieved Petitioner filed an appeal which came to be disposed vide OIA No. HYD-GST-SC-AP2-291-24-25-GST dated 19.08.2024 (Copy enclosed as **Annexure-P 7**). Petitioner is waiting for the GST Tribunal to file appeal against the above OIA.
4. For the same period i.e. FY 2018-19, the Petitioner was served with a SCN bearing Ref. No. 46/2023-24 dated 29.12.2023 (Copy enclosed as **Annexure-P- 6**) raising similar demands as raised in the previous SCN dated 19-05-2023. Accordingly, Petitioner filed its reply dated 16-02-2024 (Copy enclosed as **Annexure-P 5**) to the second SCN *inter alia* highlighting that same issues were already adjudicated and, in any case, the demands raised are factually incorrect.

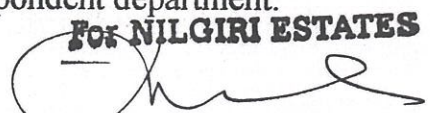
For NILGIRI ESTATES

Partner

Respondent No. 2 passed OIO No. 23/2024-25 (GST-Adjn) dated 19-04-2024 (Copy enclosed as **Annexure-P 4**) dropping the similar demands raised previously and confirming to pay interest penalty for belated tax remittances (which was not part of the previous SCN).

5. To the extent agreed by the OIO dt 19-04-2024, the Petitioner preferred an appeal and attended the hearing on 18.02.2025 before Respondent No. 1 through authorised representative and subsequently withdrew the appeal on 28.03.2025 expressing intention to opt for the amnesty scheme under Section 128A of the CGST Act, 2017 (copy enclosed as **annexure 3**). The appeal was disposed vide OIA No. HYD-GST-SC-AP2-1062-24-25-GST dated 25-03-2025 (received through post on 19.05.2025). Petitioner was waiting for the application form to apply for settlement under amnesty scheme u/s. 128A of CGST Act, 2017.
6. While the matter stood thus, to the Petitioner's utter surprise, another OIA No. HYD-GST-SC-AP2-1123-24-25-GST dated 27-03-2025 was passed *ex parte* by first Respondent dealing with the appeal filed by the Respondent No. 2 against the same OIO dt 19-04-2024 as per directions of Respondent No. 3 pursuant to the review proceedings u/s. 107(2) of CGST Act, 2017. Impugned OIA dt 27-03-2025 was received through post on 01.04.2025 (copy enclosed as annexure 1)
7. Petitioner has not received any copy of the appeal filed by the respondent department and there were only hearing intimations sent through email which were mistaken as it pertains to the appeal of the Petitioner (copy of hearing intimations received through emails enclosed as **annexure 2**). Accordingly, Petitioner could not participate in the respondent appeal proceedings. It was only after the receipt of impugned OIA dt 27-03-2025, petitioner got to know that separate appeal was filed by the respondent department.

For NILGIRI ESTATES


Partner

8. To the extent aggrieved with the impugned Order-in-Appeal bearing OIA No. HYD-GST-SC-AP2-1123-24-25-GST dated 27-03-2025 passed by the Respondent No. 1, which is without jurisdiction, passed in violation of principles of natural justice, contrary to facts, law, and evidence, apart from being contrary to a catena of judicial decisions and beset with grave and incurable legal infirmities, the Petitioner is filing this Writ Petition before this Hon'ble High Court invoking the extraordinary jurisdiction under Article 226 of the Constitution of India on the following grounds which are without prejudice to one another.

GROUNDS

9. The Petitioner respectfully submits that they were unaware of the filing of appeal by the respondent No. 2 against the same OIO dt 19-04-2024 as copy of such appeal were not served upon the Petitioner. The hearing intimations though received but could not be attended as Petitioner was under mistaken belief that such intimations pertain to the appeal of the Petitioner, which are being pursued by their authorised representative around the same time. Even the appeal filed by the Petitioner was decided to be withdrawn in order to settle under the amnesty scheme in terms of section 128A of CGST Act, 2017 as introduced through Finance Act (No. 2), 2024. Petitioner has no reasons to ignore or neglect the proceedings of appeal filed by the respondent department. Passing of impugned order adversely effected the Petitioner *inter alia* revived the demands dropped previously. Thus, the impugned order passed by the Respondent No. 1 was passed without affording effective opportunity of being heard to the Petitioner thereby in violative of the principles of natural justice.
10. Petitioner further submits that appeal filed by the revenue department vaguely alleges that differences of amounts taken in previous SCN and second SCN was not analysed by the OIO dt 19-04-2024 is fallacious for the reasons that

For NILGIRI ESTATES
Partner

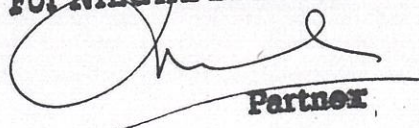
respondents had all the relevant returns, documents, statements and evidence which were analyzed during the course of audit by the respondent and dealt with while raising the first SCN. That being a case, averment raised by the respondent in their appeal that it was not analyzed is untrue and contrary to the basic procedure of the audit by the respondent department. Even at appellate stage, the impugned order came to be passed with similar mistake of assumption and without considering the materials and documents available on record thereby the impugned order is arbitrary, erroneous, bad in law and against the principles of natural justice and the order is liable to be set aside for this reason alone.

11. Petitioner further submits that except extracting the grounds of appeal urged by Respondent no. 2, impugned OIA has not given any reasons for agreeing with the grounds urged in their appeal thereby the impugned order is non-reasoning and non-speaking order which is violative of principles of natural justice. The appellate authority should have given reasons for either accepting or not accepting the pleadings and mere reproduction of the grounds in the order would serve no purpose. In this regard, relied on **Kranti Associates (P) Ltd. v. Masood Ahmed Khan (2010) 9 SCC 496.**

Impugned order, has confirmed the demand on the issues which are already verified and concluded for the same period, is illegal, wholly without jurisdiction and bad in law:

12. Petitioner submits that Respondent No. 1 passed the Impugned Order dated 27-03-2025 received on 01.04.2025 *inter alia* confirming the very same demand that has already been adjudicated in the Order-in-original bearing OIO No. 28/2023-24 (Sec-Adjn-ADC) (GST) dated 12.10.2023. That being the case, the issuance of the SCN dated 29.12.2023 for very same issues covering the same period as well as passing of the impugned order dated 27.03.2025 received on

For NILGIRI ESTATES


Partner

- 01.04.2025 is patently illegal and without authority of law and is clearly not permitted to reagitate the very same issues that are already adjudicated.
13. Further, the term Audit as defined in Section 2(13) of GST Act, means examination of records, returns and other documents maintained or furnished by the registered person under this Act or the rules made thereunder or under any other law for the time being in force to *verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or the rules made thereunder.*
14. Further, as per Audit Guidelines, it is imperative for the audit conducting officer to verify returns with respect to availment of ITC viz., Section 17(5) compliance; compliance to Section 16 and reconciliation of GSTR 1, GSTR 3B and GSTR 9 which should have been complied by earlier audit conducting officers who after proper verification has raised certain demands which were agreed by the Petitioner. The GST Audit Manual, 2019 (hereinafter referred to as GSTAM 2019) clearly explains the Objectives and Principles of audit under Chapter 2 which says "*Basic principles of audit are- Conducting audit in a systematic and comprehensive manner*".
15. Without prejudice to the above, the audit wing of Central tax has conducted the detailed audit *inter alia* verified the records of sales and purchases and reconciled the differences between GSTR-1, GSTR-3B and GSTR-2A and made certain observations which were finally culminated into issuance of earlier SCN dated 19.05.2023. This step of verification is one of the basis features of GST audit by the department as evident from the Para 5.5.4 & 5.8.3 of GST Audit Manual, 2019 issued by CBIC. Relevant extracts are enclosed as **annexure 10**. Having considered the same, the action of Respondents in raising the very same issues again is improper.

FOR NILGIRI ESTATES
Partner

16. Petitioner submits that reopening of the already adjudicated assessment amounts to abuse of the process of law. In this regard, relied on **Union of India v. Vicco Laboratories 2007 (218) E.L.T. 647 (SC)**. Mere change of opinion regarding quantification cannot be a ground to conduct one more proceeding for the same tax period and subject matter. In any case, if the quantification was less in the earlier proceedings nothing stopped the respondent department from issuing a corrigendum to SCN. Having missed it or non-exercising of that option cannot improve the case now through another proceedings, which are correctly dropped by the respondent no. 2 in his OIO dt 19-04-2024.
17. It is further submitted that two assessments are not permissible in law for the same period, especially on the same issue and same period. If for a particular period and issue jurisdiction is exercised by the respondent, then they become functus officio and cannot raise another demand. In this regard, rely on **Duncans Industries Ltd. v. CCE 2006 (201) E.L.T. 517 (SC)**.
18. In similar facts & circumstances, the Hon'ble HC of Jharkhand in case of **Ambey Mining Pvt. Ltd. vs. Commissioner of State Tax, Dhurwa 2023 (76) G.S.T.L. 191 (Jhar.)** quashed the two show cause notices by two different authorities for the same period on the same issue.
19. Petitioner submits that this Hon'ble HC in case of **Rays Power Infra Private Limited vs. Superintendent of Central Tax 2024 (84) G.S.T.L. 146 (Telangana) (Para 17)** held that once the entire tax is paid in accordance with final audit report the provisions of Section 73(4) & 73(6) prevent any further proceedings from being initiated. There is no whisper or allegation of any fraud or wilful suppression or wilful misstatement by the Petitioner in the audit findings or show cause notice or impugned order therefore impugned proceedings cannot be initiated.

FOR NILGIRI ESTATES

Partner

20. Petitioner submits that this Hon'ble HC in **WP No. 11449 of 2024 and WP No. 17990 of 2024**, dealing with the similar case of making fresh demands for the already audited period, stayed the demands. (Copy of the interim orders enclosed as **Annexure P-11**)

Impugned OIO and SCN are not uploaded online which is a violation of Rule 142

21. The Petitioner submits that they have not received any summary of the demand order in Form DRC-07 electronically till date, which is mandated as per Rule 142 (1) & (5) of CGST Rules, 2017 when an order is passed under Section 73 of CGST Act, 2017. In this regard, the Petitioner submits that Rule 142(5) of CGST Rules, 2017.
22. Petitioner submits that summary of the order in Form DRC-07 was neither uploaded online nor served through speed post along with the Order. Thus, the order is not issued in consonance with the Rules framed under this Act, and on this ground alone, the entire order is liable to be quashed.
23. In this regard, Petitioner wishes to rely on the judgment of Hon'ble Madhya Pradesh High Court in *Mr. Akash Garg vs. The State of MP* [2020-TIOL-2013-HC-MP-GST]. Petitioner further places his reliance on **New Hanumat Marbles vs State of Punjab (2023) 5 Centax 75 (P&H.)** where writ petition was allowed with liberty to the revenue to follow the procedure prescribed under rule 142 (1) of the CGST Act and impugned demand is struck down and the matter is remanded back to the Assessing Officer to pass fresh orders after issuing notice as contemplated under rule 142(1) of the CGST Act and afford opportunity of hearing to the petitioner(s) in accordance with law
24. Petitioner further submits that CBIC vide Instruction No. 4/2023-GST [F.NO.20016/41/2023-CBIC], dated 23-11-2023 has clarified that uploading the SCN and its summary online is mandatory as per the GST provisions.

For NILGIRI ESTATES

Partner

In absence of adherence to the statutory mandate, the impugned proceedings are void ab initio and require to be dropped on this count alone.

Alleged differences are based on assumptions and without verifying the available records and applicable statutory provisions of law:

25. The Petitioner submits that the differences arrived by the SCN were due to selective reconciliation of the differences that is to say SCN has considered only the months when there was excess tax declared in GSTR-1 but has ignored the months where excess tax was declared in GSTR-3B. Thus, if the overall difference across all months is considered (including months with excess tax in GSTR-3B), the net differential for the audit period comes to only Rs.5,15,480/-, which was already paid through DRC 03 on 09-08-2019 vide ARN: AD3608190006125.
26. The Petitioner further submits that the alleged differences in ITC was due to non considering the updated GSTR-2A reports. Here again, the actual differential amount stands remitted.
27. Without prejudice to the above, the Petitioner further contends that the said ITC is rightfully eligible for the following reasons, despite the fact that the alleged ITC is not reflected in GSTR-2A:
- GSTR-2A cannot be taken as a basis to deny the ITC in accordance with Section 41, Section 42, Rule 69 of CGST Rules, 2017.
 - Finance Act, 2022 has omitted Section 42, 43 and 43A of the CGST Act, 2017 which deals ITC matching concept. Petitioner submits that the substituted Section 38 of the CGST Act, 2017 now states that only the eligible ITC which is available in the GSTR-2B (Auto generated statement) can be availed by the recipient. Now, GSTR-2B has become the main document relied upon by the tax authorities for verification of the accurate ITC claims. Hence, omission of sections 42, 43 and 43A has eliminated the concept of the provisional ITC claim process, matching and reversals.

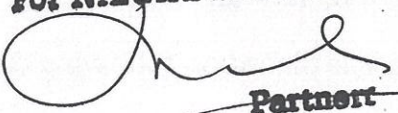
For NILGIRI ESTATES

Partner

- c. Once the mechanism prescribed under Section 42 to match the provisionally allowed ITC under Section 41 is not in operation and has been omitted by the Finance Act, 2022 the effect of such omission without any saving clause means the above provisions was not in existence or never existed in the statute.
- d. Section 38 read with Rule 60 had prescribed the FORM GSTR 2 which is not made available till 30.09.2022. Notification No. 20 Central Tax dated 10th Nov 2020 has substituted the existing rule to w.e.f. 1.1.2021 meaning thereby the requirement of Form GSTR 2 necessary in order to due compliance of Section 38. In the absence of the said form, it was not possible for the taxpayer to comply with the same. Further, Form GSTR 2 has been omitted vide Notification No. 19/2022- Central Tax dated 28.09.2022 w.e.f. 01.10.2022.
- e. Section 42 clearly mentions the details and procedure of matching, reversal, and reclaim of input tax credit with regard to the inward supply. However, Section 42 and Rule 69 to 71 have been omitted w.e.f. 01.10.2022.
- f. Rule 70 of CGST Rules 2017 which prescribed the final acceptance of input tax credit and communication thereof in Form GST MIS-1 and Rule 71 prescribes the communication and rectification of discrepancy in the claim of input tax credit in form GST MIS-02 and reversal of claim of input tax credit. Further, Rule 70 has been omitted vide Notification No. 19/2022 Central Tax dated 28.09.2022 w.e.f 01.10.2022.
- g. It is submitted that neither the form has been prescribed by the law nor the same has been communicated to the Petitioner therefore it is not possible to comply with the condition given in Section 42 read with Rule 69, Rule 70 and 71. Hence, the allegation of the impugned notice is not correct.

For NILGIRI ESTATES
Partner

- h. Fact that there is no requirement to reconcile the invoices reflected in GSTR-2A vs GSTR-3B is also evident from the amendment in Section 16 of CGST Act, 2017 vide Section 100 of Finance Act, 2021. Hence, there is no requirement to reverse any credit in the absence of the legal requirement during the subject period.
- i. Similarly, it is only Rule 36(4) of CGST Rules, 2017 as inserted w.e.f. 09.10.2019 has mandated the condition of reflection of vendor invoices in GSTR-2A with adhoc addition of the 20% (which was later changed to 10% & further to 5%). At that time, the CBIC vide Circular 123/42/2019 dated 11.11.2019 categorically clarified that the matching u/r. 36(4) is required only for the ITC availed after 09.10.2019 and not prior to that. Hence, the denial of the ITC for non-reflection in GSTR-2A is incorrect during the subject period.
- j. The fact of payment or otherwise of the tax by the supplier is neither known to Petitioner nor is verifiable by Petitioner. Thereby, it can be said that such condition is impossible to perform and it is a known principle that the law does not compel a person to do something which he cannot possibly perform as the legal maxim '*lex non-cogit ad impossibilia*'. Thereby it can be said that the condition which is not possible to satisfy, need not be satisfied and shall be considered as deemed satisfied.
- k. Section 41 allows the provisional availment and utilization of ITC, there is no violation of section 16(2)(c) of CGST Act 2017
- l. The above view is also fortified from press release dated 18.10.2018
- m. Even if there is differential ITC availed, if the same is accompanied by a valid tax invoice containing all the particulars specified in Rule 36 of CGST Rules and the payment was also made to the suppliers, the Petitioner is rightly eligible for ITC.

For NILGIRI ESTATES

Partner

20

n. Under the earlier VAT laws there were provisions similar to Section 16(2) ibid which have been held by the Courts as unconstitutional.

28. In this regard, Petitioner relies on following decisions:

- **Suncraft Energy Pvt. Ltd. vs. Assistant Commissioner 2023 (77) G.S.T.L. 55 (Cal.) affirmed by Supreme Court as reported in 2024 (80) G.S.T.L. 225 (S.C.)**
- **Diya Agencies v. State Tax Officer 2023 (9) TMI 955 - Kerala High Court**
- **D.Y. Beathel Enterprises Vs State Tax officer (Data Cell), (Investigation Wing), Tirunelveli 2021(3) TMI 1020-Madras High Court**
- **LGW Industries limited Vs UOI 2021 (12) TMI 834 -Calcutta High Court**
- **Bharat Aluminium Company Limited Vs UOI & Others 2021 (6) TMI 1052 – Chhattisgarh High Court**
- **M/s. Sanchita Kundu & Anr. Vs Assistant Commissioner of State Tax 2022 (5) TMI 786 - Calcutta High Court**

Section 16(2)(aa) inserted vide Finance Act, 2021 is not applicable retrospectively

29. Without prejudice to the above, the bar of Section 16(2)(aa) does not apply for the period till 31.12.2021 as the sub-clause (aa) to Section 16(2) was inserted vide Section 109 of Finance Act, 2021 which came into effect vide Notification No. 39/2021-Central Tax dated 21.12.2022 w.e.f. 01.01.2022. Accordingly, ~~demand for the FY 2020-21 is not sustainable.~~ ✓

30. It is settled law that when the amendments are made prospectively, same cannot be applied retrospectively moreover when the changes are made to the substantive law and have effect of denying the vested right of the assessee. Reliance is placed on following decisions

For NILGIRI ESTATES
Partner

a) Sales Tax officer, Ward-II vs. M/s. Oriental Coal Corporation 1988
Supp SCC 308;

b) Union of India and Anr. vs M/s. Intercontinental Consultants and
Technocrats Pvt. Ltd. 2018 (10) G.S.T.L. 401 (S.C.)

31. The petitioner submits that same is aptly covered under the legal maxim - *Nora constitutio futuris formam imponere debet non praeteritis* – A new law ought to be construed to interfere as little as possible with vested rights. The obvious basis of the principle against retrospectivity was the principle of ‘fairness’, which must be the basis of every legal rule.

32. This Hon’ble High Court in similar matter **in WP No. 10187 of 2024 vide interim order dated 19.04.2024, WP No. 21532 of 2024 vide interim order dated 22.08.2024 and again in WP No. 26763 of 2024 vide interim order dated 30.09.2024** had admitted the petition and granted the interim relief.

Passing of the *ex-parte* impugned order denying the legitimate benefit of amnesty under section 128A of CGST Act, 2017:

33. The Petitioner submits that appeal filed by the Petitioner was withdrawn with an intention to avail the benefit of the amnesty scheme and while the Petitioner was waiting for the form to be filed online for settlement under amnesty scheme, the passing of *ex-parte* impugned order came as surprise and creates the additional liabilities to be paid which are in fact not liable to be paid as explained *supra*. in terms of second proviso to the section 128A(1) of CGST Act, 2017 when any order is applied for settlement, such settlement is subject to condition that additional tax shall be paid under the scheme is order under settlement is appealed under section 107(3) of CGST act, 2017. Resultantly, if the Petitioner wants to settle under the scheme and without further appeal against the impugned OIA, Petitioner now must pay additional tax determined by the first respondent by way of allowing the respondent department appeal *ex parte*. Thus,

For NILGIRI ESTATES


Partner

impugned *ex parte* order depriving the legitimate benefit of the immediate waiver and settlement under the amnesty scheme as per section 128A of CGST Act, 2017.

34. Petitioner further submits that Rule 164(6) of CGST Rules, 2017 as amended read with Notification No. 21/2024-C.T. dt 08-10-2024 specifies that the last date to make payment under amnesty scheme is 30-06-2025 and three months payment date in terms of second proviso to section 128A(1) expires on 02-07-2025. Thus, Petitioner humbly pleads before this Hon'ble HC to set aside impugned *ex-parte* order and direct the first respondent to rehear the appeal so as to ensure that Petitioner is given effective opportunity and also legitimate waiver and settlement is availed under the amnesty scheme as per section 128A. Further, the proper officer (respondent No. 2 herein) shall decide the application within 3 months from the application in terms of rule 164(13) thereby Petitioner humbly pleads before this Hon'ble HC to direct the Respondent No.2 for not insisting the additional tax payments till the setting aside of the impugned *ex parte* order.

Only efficacious remedy is to file the present Petition:

35. The Petitioner submits that there is no efficacious or alternative remedy available as the impugned order is passed without jurisdiction, authority of law and being violative of principles of natural justice. The Petitioner has been left with no other efficacious alternative remedy but to challenge the impugned order by way of this writ petition. The appeal remedy against the impugned order lies before GST Tribunal, which was not formed yet and the impugned order is creating additional tax obligations under the amnesty scheme which are in fact not liable to be paid.
36. The petitioner respectfully submits that the instant case squarely falls under the exception to alternative remedy and fit case for entertaining the discretion of

For NILGIRI ESTATES

Partner

Hon'ble High court to invoke writ jurisdiction under Article 226. Hence, the Petitioner prays to the Hon'ble High Court to set aside the impugned order.

37. The Petitioner has not filed any other writ petition in this or any other court in regard to matters in issue in the present writ petition. The Petitioner has no effective alternative remedy except to approach the Hon'ble High Court under Article 226 of the Constitution of India.

38. The entire cause of action has arisen within the jurisdiction of this Hon'ble Court. This Hon'ble Court, therefore, has jurisdiction to entertain, try and dispose of this petition.

39. For the above reasons, it is humbly prayed that the Hon'ble High Court may be pleased to issue a writ, order, or direction more particularly one in the nature of a Writ of Mandamus

- i. Declaring that impugned Order-in-Appeal bearing OIA No. HYD-GST-SC-AP2-1123-24-25-GST dated 27.03.2025 passed by the Respondent No. 1 under the provisions of CGST/TGST Act, 2017 as being void, arbitrary, illegal, without jurisdiction, 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 to consequently set aside the same and/or pass such further or other order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case.
- ii. Directing Respondent No. 1 to serve a copy of the appeal memo filed by Respondent no. 2 and afford an opportunity of being heard before any decision is taken on the appeal filed by Respondent no. 2 and/or pass such further or other order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Pending disposal of the writ petition, it is humbly prayed that this Hon'ble Court may be pleased to stay operation of impugned Order-in-Appeal bearing OIA

For NILGIRI ESTATE

Partner

24
No. HYD-GST-SC-AP2-1123-24-25-GST dated 27-03-2025 passed by the Respondent No. 1 and/or pass such further or other order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Pending disposal of the writ petition, it is humbly prayed that this Hon'ble Court to permit the Petitioner to file application under amnesty scheme without additional tax payment arising out of the impugned OIA No. HYD-GST-SC-AP2-1123-24-25-GST dated 27-03-2025 passed by the Respondent No. 1 and/or pass such further or other order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For NILGIRI ESTATES

Partner
Deponent

Solemnly affirmed and signed

on this the 2nd day of ^{May} ~~June~~ 2025

Hyderabad

BEFORE ME

ADVOCATE/HYDERABAD

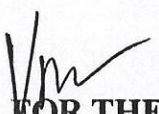
VERIFICATION STATEMENT

I, Soham Satish Modi, S/o Shri Satish Modi, aged about 55 years, residing at Plot NO. 280, Road No. 25, Jubilee Hills, Hyderabad- 500034 do hereby verify that the facts stated above in the Affidavit filed on support of the writ petition as true and correct to the best of my knowledge, information and belief.

Verified on this the 2nd day of ^{May} ~~June~~ 2025

For NILGIRI ESTATES

Partner
Deponent


COUNSEL FOR THE PETITIONER

25

P-1

OIA No. HYD-GST-SC-AP2-1123-24-25-GST



सीमाशुल्क व केन्द्रीय कर अपील-II आयुक्त का कार्यालय
OFFICE OF THE COMMISSIONER OF CUSTOMS & CENTRAL TAX
APPEALS-II COMMISSIONERATE, HYDERABAD
सातवाँतल, केन्द्रीयशुल्कभवन, 7th Floor, KENDRIYA SHULK BHAVAN,
एलबीस्टेडियमरोडकेसामने, बशीरबाग, हैदराबाद - 500 004
OPP. L. B. STADIUM, BASHEERBAGH, HYDERABAD-500 004.
Ph. Nos.: 040-23241716; Fax-040-23237873 E-mail: cgst.hyddappeals1@gov.in



Appeal No. 218/2024 (SC) DGST
OIO No. 23/2024-25-Adjn.(GST) dated 19.04.2024
DIN - 20250356DN0000555BE4

366

अपील आदेश ORDER - IN - APPEAL No. HYD-GST-SC-AP2-1123-24-25-GST

तारीख Date. 27.03.2025

जारीकर्ता: श्री वि. विजय आई आर एस, अपर आयुक्त, अपील-II

Passed by: Shri. B Vijay, IRS. Additional Commissioner of Appeals- II

उद्देशिका / P R E A M B L E

1	जिस व्यक्ति को यह प्रति जारी की जाती है, उस व्यक्ति के निजी उपयोग के लिए निशुल्क दी जाती है। This copy is granted free of cost for the private use of the person to whom it is issued.
2.	इस आदेश से व्यक्ति कोई भी व्यक्ति, वस्तु एवं सेवा कर नियम, 2017 के नियम 110 के साथ पठित केन्द्रीय वस्तु एवं सेवा कर अधिनियम 2017 की धारा 109 के तहत गठित उपयुक्त अपीलिय न्यायाधिकरण के राज्य / क्षेत्र के क्षेत्राधिकार के खंड पीठ में उन मामलों में, जिनमें 'अपूर्ति की जगह' विवाद-ग्रस्त विषयों में से एक न हो, अपील दायर कर सकता है। जहां 'आपूर्ति की जगह' विवादित मामलों में से एक है, अपील, उपरोक्त धारा 109 के तहत गठित राष्ट्रीय / क्षेत्रीय खंडपीठ के समक्ष दायर की जाए। जिस आदेश के विरुद्ध अपील दायर की जा रही है उसे अपीलकर्ता को संप्रेषित करने की तिथि से 3 (तीन) माह के अंदर अपील जीएसटी एपीएल-05 फॉर्म में दायर की जानी चाहिए। आदेश की एक प्रमाणित प्रति, यदि लागू हो तो नियम 110 (5) के अंतर्गत विहित शुल्क तथा अन्य संगत दस्तावेज संलग्न करते हुए, अपील पर नियम 26 के तहत विनिर्दिष्ट तरीके से हस्ताक्षर किए जाएं। Any person aggrieved by this order, may under Section 112(1) of the Central Goods and Services Tax (CGST) Act 2017, read with Rule 110 of the CGST Rules, 2017; file an appeal electronically or otherwise, to the appropriate State / Area Bench of the Appellate Tribunal constituted under Sec 109 of the CGST Act 2017 in cases not involving 'place of supply' as one of the disputed issues. Where the 'place of supply' is one of the disputed issues, the appeal shall be filed with the National / Regional bench constituted under the said Sec 109. The appeal should be filed in Form GST APL-05 within 3 (three) months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal. The appeal shall be signed in the manner specified under Rule 26, enclosing a certified copy of the order, the prescribed fee under Rule 110(5) if applicable, and any other relevant documents.
3.	वस्तु एवं सेवा कर नियम, 2017 के नियम 111 के साथ पठित केन्द्रीय वस्तु एवं सेवा कर अधिनियम 2017 की धारा 112 (3) के तहत आयुक्त द्वारा प्राधिकृत अधिकारी इलेक्ट्रॉनिक या अन्य माध्यम से, केन्द्रीय वस्तु एवं सेवा कर अधिनियम 2017 की धारा 109 के तहत गठित अपीलिय न्यायाधिकरण के राज्य / क्षेत्र के क्षेत्राधिकार के खंड पीठ में उन मामलों में, जिनमें 'आपूर्ति की जगह' विवाद-ग्रस्त विषयों में से एक न हो, अपील दायर कर सकता है। जहां 'आपूर्ति की जगह' विवादित मामलों में से एक है, अपील, उपरोक्त धारा 109 के तहत गठित राष्ट्रीय / क्षेत्रीय खंडपीठ के समक्ष दायर की जाए। जिस आदेश के विरुद्ध अपील दायर की जा रही है उसे जारी करने की तिथि से 6 (छः) माह के अंदर अपील जीएसटी एपीएल -07 फॉर्म में दायर की जानी चाहिए। अपील के साथ आदेश की प्रमाणित प्रति एवं अन्य संगत दस्तावेज संलग्न हो। विभागीय अपील के प्रत्याक्षेप, वस्तु एवं सेवा कर अधिनियम 2017 की धारा 112 (5) के साथ पठित नियम 110 (2) के अनुसार जीएसटी एपीएल -06 फॉर्म में इसके सम्प्रेषण के 45 दिनों के अंदर दायर किए जाएं और इस पर नियम 26 में विनिर्दिष्ट तरीके से हस्ताक्षर किए जाएं। The officer authorized by the Commissioner under Sec 112(3) of the CGST Act 2017, read with Rule 111 of the CGST Rules, 2017; file an appeal electronically or otherwise, to the State / Area Bench of the Appellate Tribunal constituted under Sec 109 of the CGST Act 2017 in cases not involving 'place of supply' as one of the disputed issues. Where the 'place of supply' is one of the disputed issues, the appeal shall be filed with the National / Regional bench constituted under the said Sec 109. The appeal should be filed in Form GST APL-07 within 6 (six) months of the date of issuance of the disputed order. The appeal shall enclose a certified copy of the order, and any other relevant documents. The cross objections to the departmental appeal shall be filed within 45 days of communicating it, in Form GST APL-06 in terms of Rule 110(2) read with Sec 112(5) of the CGST Act 2017 and signed in the manner specified in Rule 26.
	रेवेन्यू वार एसोसिएशन के मामले में मद्रास उच्च न्यायालय के आदेश के मद्देनजर अपीलिय न्यायाधिकरण का गठन नहीं

	किया गया है। v. भारत संघ और इसलिए अपील उस तारीख से तीन महीने के भीतर दायर नहीं की जा सकती जिस दिन आदेश के खिलाफ अपील की मांग की गई है। अधिनियम के उपरोक्त प्रावधान को प्रभावी करने में उत्पन्न होने वाली कठिनाई को दूर करने के लिए, सरकार ने परिषद की सिफारिशों पर, केंद्रीय माल और सेवा कर (कठिनाइयों का नौवां निवारण) आदेश, 2019 दिनांक 03.12.2019 जारी किया है। उक्त आदेश के माध्यम से यह प्रावधान किया गया है कि ट्रिब्यूनल में अपील आदेश के संचार की तारीख या जिस तारीख को राष्ट्रपति या राज्य अध्यक्ष, के रूप में तीन महीने (सरकार द्वारा अपील के मामले में छह महीने) के भीतर की जा सकती है। अपीलीय न्यायाधिकरण के कार्यालय में प्रवेश करने की स्थिति में, जो भी बाद में हो।
	(ii) The appellate tribunal has not been constituted in view of the order by Madras High Court in case of Revenue Bar Assn. v. Union of India and therefore the appeal cannot be filed within three months from the date on which the order sought to be appealed against is communicated. In order to remove difficulty arising in giving effect to the above provision of the Act, the Government, on the recommendations of the Council, has issued the Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 03.12.2019. It has been provided through the said Order that the appeal to tribunal can be made within three months (six months in case of appeals by the Government) from the date of communication of order or date on which the President or the State President, as the case may be, of the Appellate Tribunal enters office, whichever is later.
4.	धारा 112 (8) के अनुसार, धारा 112 (1) के तहत तब तक कोई अपील दायर नहीं की जाएगी जब तक अपीलकर्ता (ए) आक्षेपित आदेश से उत्पन्न कर, ब्याज, फाइन, शुल्क व जुर्माना के उस अंश का, जो उसके द्वारा स्वीकार किया गया है तथा (बी) उक्त आदेश, जिसके संबंध में अपील दायर की गई है, से उत्पन्न धारा 107(6) के अंतर्गत प्रदत्त राशि के अतिरिक्त, विवादित कर की शेष राशि के 20% का पूर्ण भुगतान नहीं किया हो।
	In terms of Sec 112(8), no appeal shall be filed under Sec 112(1) unless the appellant has paid (a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and (b) a sum equal to 20% of the remaining amount of tax in dispute, in addition to the amount paid under Sec 107(6), arising from the said order, in relation to which the appeal has been filed.
5.(i)	धारा 112 (1) के तहत आवेदन पत्र के साथ रुपए 5 मूल्य (केवल पांच रुपये) का गैर न्यायिक न्यायालय शुल्क टिकट हो। नियम 110 (5) के साथ पठित धारा 112 (10) के अनुसार अपीलीय प्राधिकरण के समक्ष अपील / अपील प्रत्यावर्तन हेतु प्रस्तुत आवेदन के साथ अधिकतम रु. पच्चीस हजार रुपये के अध्यक्षीन कर / इनपुट टैक्स क्रेडिट के प्रति एक लाख रुपये के लिए रु. एक हजार का शुल्क या कर या इनपुट टैक्स क्रेडिट में अंतर या जिस आदेश के विरुद्ध अपील की जा रही है उसमें निर्धारित फाइन, शुल्क या जुर्माना लगाया जाए।
	The application under Sec 112(1) shall bear a non-judicial court fee stamp of value Rs.5 (Rupees Five only). In terms of Sec 112(10) read with Rule 110(5), an application for appeal / restoration of appeal before the Appellate Tribunal shall be accompanied by a fee of One thousand rupees for every one lakh rupees of tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in the order appealed against, subject to a maximum of twenty five thousand rupees
5.(ii)	उपरोक्त धारा 112 की उप धारा (5) में संदर्भित कुल प्रत्याक्षेपों के ज्ञापन के संबंध में कोई शुल्क देय नहीं होगा।
	No fee is payable in respect of the Memorandum of Cross Objections referred to in sub-sec (5) of Sec 112 ibid.
5.(iii)	धारा 112(3) के अंतर्गत, आयुक्त द्वारा अधिकृत अधिकारी द्वारा दायर किए जाने वाले आवेदन के मामले में कोई शुल्क देय नहीं होगा।
	No fee is payable in case of an application filed by the officer authorized by the Commissioner to file an appeal under Sec 112(3).
6.	केन्द्रीय वस्तु एवं सेवा कर अधिनियम, 2017 में निहित उक्त एवं अन्य संबंधित मामलों को नियंत्रित करने वाले प्रावधानों और इनके तहत बनाए गए नियम / जारी की गई अधिसूचनाओं की ओर ध्यान आकर्षित किया जाता है।
	Attention is invited to the provisions governing these and other related matters, contained in the Central Goods & Services Act, 2017 and the rules made / notifications issued thereunder, for compliance.

Appellant	Assistant Commissioner of Central Tax, Secunderabad GST Division, Secunderabad GST Commissionerate, Hyderabad.
Respondent	M/s Nilgiri Estates, 2 nd Floor, 5-4-187/3 and 4, Soham Mansion, MG Road, Secunderabad, Telangana-500003.

These proceedings arise out of an appeal filed by the Assistant Commissioner of Central Tax, Secunderabad GST Division, Secunderabad GST Commissionerate, Hyderabad (hereinafter referred to as 'appellant department') against Order-in-Original No. 23/2024-25-Adjn(GST) GST-Adjn), dated 19.04.2024 (hereinafter referred to as 'impugned order') passed by the Assistant Commissioner of Central Tax, Secunderabad GST Division, Secunderabad GST Commissionerate, Hyderabad (hereinafter referred to as 'original authority') in the case of M/s Nilgiri Estates, 2nd Floor, 5-4-187/3 and 4, Soham Mansion, MG Road, Secunderabad, Telangana-500003 (hereinafter referred to as "respondent").

STATEMENT OF FACTS

2)

- A. The respondent having GSTIN 36AAHFN0766F1ZA are engaged in the supply of 'works contract services' falling under HSN 00440334 & 00440410 with effect from 01-07-2017.
- B. Based on information received from the Telangana State GST authority, scrutiny of the records of the tax payer was undertaken for the financial year 2018-19, following discrepancy was noticed.
- Under declaration of output tax on reconciliation of turnover in GSTR-01, GSTR-3B, and GSTR-9 for the year 2018-19.
 - Excess availment of ITC on inward supplies on reconciliation of GSTR-9 for the year 2018-19.
 - Excess reversal shown in GSTR-9 than the reversals shown in GSTR-3B for the year 2018-19.
- C. Accordingly, the original authority issued the Show Cause Notice No. 46/2023-24 dated 19-12-2023 asking the taxpayer as to why
- (i) an amount of Rs. 27,66,974/(Rs. 13,83,487/-CGST and Rs13,83,487/-SGST) (Rupees Twenty Seven Lakhs Sixty Six Thousand Nine Hundred and Seventy Four only), as discussed supra in Para 2 should not be demanded

from them under Section 73(1) of the CGST Act, 2017 and similar provisions as laid in the TGST Act, 2017 read with Section 20 of IGST Act, 2017.

(ii) an amount of Rs. 20,63,272 /- (Rs.10,31,636/- CGST and Rs. 10,31,636/- SGST) (Rupees Twenty Lakhs Sixty-Three Thousand Two Hundred and Seventy-Two only), as discussed supra in Para 3 should not be demanded from them under Section 73(1) of the CGST Act, 2017 and similar provisions as laid in the TGST Act, 2017 read with Section 20 of IGST Act, 2017.

(iii) interest at the applicable rate should not be demanded from them on tax demanded at (i) & (ii) above under Section 50 of CGST Act, 2017 read with Section 20 of IGST Act and similar provisions under TGST Act, 2017.

(iv) penalty should not be imposed on them demands at (i) & (ii) above under Section 73 of CGST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017 and Section 20 of IGST Act, 2017 and similar provisions under TGST Act, 2017.

D. The Adjudicating Authority after due process of law passed the impugned order.

- i. I drop the proceedings initiated in the show cause under Issue-1 in view of the discussions and findings in Para 9 above.
- ii. I drop the proceedings initiated in the show cause under Issue-2 in view of the discussions and findings in Para 10 above.
- iii. I confirm the demand of Rs. 4,56,318/- (CGST: Rs.2,28,159/-SGST: Rs.2,28,159/-) (Rupees Four Lakh Fifty-Six Thousand Three Hundred and Eighteen Only), in respect of Issue-3, as discussed supra in Para -11 under Section 73(9) of the CGST Act, 2017 and similar provisions as laid down in the TGST Act, 2017 read with Section 20 of IGST Act, 2017.
- iv. I appropriate the amount of Rs. 4,56,318/- (CGST: Rs.2,28,159/-SGST: Rs.2,28,159/-) (Rupees Four Lakh Fifty Six Thousand Three Hundred and Eighteen Only) which was already paid by them vide DRC dated 07.01.2020 under Debit Entry No. D13601200012760 and DRC dated 16.10.2020 under debit entry no. D13610200050832 towards duty confirmed at Sl.No. (iii) above, under Section 73(9) of the CGST Act, 2017 and similar provisions as laid down in the TGST Act, 2017 read with Section 20 of IGST Act, 2017.
- v. I confirm the demand of interest at the applicable rate from them on tax demanded at (iii) above under Section 50 of CGST Act, 2017 read with Section 20 of IGST Act and similar provisions under TGST Act, 2017.
- vi. I confirm the demand of penalty from them on the demand at (iii) above under Section 73(9) of CGST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017 and Section 20 of IGST Act, 2017 and similar provisions under TGST Act, 2017.

E. The impugned order was reviewed vide Review Order No. 222/2024-25-GST (OIO) dated 15.10.2024 passed by the Commissioner of Central Tax, Secunderabad GST Commissionerate, Hyderabad and by virtue of powers vested under Section 107(2) of the CGST Act, 2017, the original authority was authorised and directed to file an appeal to this forum for correct determination of the following points arising out of the impugned order:

- i. *"set aside the impugned order-in-original to the extent of dropping the demand of Rs.27,66,974/- (CGST-Rs.13,83,487/- and SGST-Rs.13,83,487/-) vide Para 13(i) of the impugned Order-In-Original proposed in terms of Section 73 of the CGST Act,2017 and TGST Act, 2017 for the reasons cited supra;*
- ii. *confirm the demand of Rs.27,66,974/- (CGST-Rs.13,83,487/- and SGST-Rs.13,83,487/-) as proposed in the show cause notice under Section 73(9) of the CGST Act, 2017 & TGST Act, 2017 along with Interest under Section 50 of the CGST Act, 2017 & TGST Act, 2017 and impose appropriate penalty under Section 73(9) read with Section 122(2)(a) of the CGST Act, 2017 & TGST Act, 2017 for the reasons cited supra;*
- iii. *set aside the impugned order-in-original to the extent of dropping the demand of Rs.16,06,954/- (CGST-Rs.8,03,477/- and SGST-Rs.8,03,477/-) (included in the total amount of Rs.20,63,272/- (CGST-Rs. 10,31,636/-, SGST:10,31,636/-) demanded vide Para 5(ii) of the impugned show cause notice)) vide Para 13(ii) of the impugned Order-In-Original proposed in terms of Section 73 of the CGST Act,2017 and TGST Act, 2017 for the reasons cited supra;*
- iv. *confirm the demand of Rs.16,06,954/- (CGST-Rs.8,03,477/- and SGST-Rs.8,03,477/-) as proposed in the show cause notice under Section 73(9) of the CGST Act, 2017 & TGST Act, 2017 along with Interest under Section 50 of the CGST Act, 2017 & TGST Act, 2017 and impose appropriate penalty under Section 73(9) read with Section 122(2)(a) of the CGST Act, 2017 & TGST Act, 2017 for the reasons cited supra;*
- v. *Pass such other orders as deemed fit."*

GROUND OFS OF APPEAL

3)

A. The impugned Order-In-Original does not appear to be legal and proper to the extent of dropping the demands in the issues of 'Under declaration of output tax on reconciliation of turn over in GSTR-01, GSTR-3B and GSTR-9 for the year 2018-19' and 'Excess availment of ITC on inward supplies on reconciliation of GSTR-9 for the year 2018-19' stating that on the same issues, a show cause notice was issued earlier and adjudicated by the Additional Commissioner, Secunderabad GST

Commissionerate, for the following reasons:

Under declaration of output tax on reconciliation of turnover in GSTR-01, GSTR-3B and GSTR-9 for the year 2018-19

B. In the impugned Show Cause Notice, it was alleged that the tax payer has not correctly declared tax on his outward supplies on reconciliation of turnover in GSTR-01, GSTR-3B and GSTR-9 for the financial year 2018-19 and an amount of Rs. 27,66,974/- (CGST-Rs.13,83,487/- and SGST-Rs.13,83,487/-) was demanded under Section 73 of CGST Act, 2017/TGST Act, 2017 along with interest under Section 50 of CGST Act, 2017/TGST Act, 2017 and penalty also was proposed under Section 73 of CGST Act, 2017/TGST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017.

C. Whereas vide Para 13 (i) of the impugned Order-In-Original, the Adjudicating Authority dropped the proceedings initiated in the show cause notice holding that on the same issue as detailed at Para 3.2.1 above, a show cause notice was issued by the Additional Commissioner, Hyderabad Audit-II Commissionerate vide Show Cause No. 06/23-24 dated 19.05.2023 in C.No. V/Audit-II/C-I/28/2021- 22/Gr-15 and the same was adjudicated by the Additional Commissioner, Secunderabad GST Commissionerate vide OIO No.28/2023-24 (Sec-Adjn-ADC)(GST), dated 12.10.2023.

D. However, as observed from the said OIO dated 12.10.2023 passed by the Additional Commissioner, Secunderabad GST Commissionerate vide OIO No. 28/2023-24 (Sec-Adjn-ADC)(GST), demand was made for tax liability of CGST & SGST of Rs 27,16,554/- (CGST-Rs. 13,58,227/-, SGST-Rs.13,58,227/-) pertaining to the Financial Year 2018-19 and the same has been confirmed along with applicable interest and penalty which is less than the current demand i.e. Rs.27,66,974/- (CGST-Rs.13,83,487/- and SGST-Rs.13,83,487/-) proposed in the impugned Show cause notice pertaining to the current order-in-original, but the adjudicating authority dropped the demand without proper verification of the facts of the issue and without assigning any reasons for the difference in tax demanded, which does not appear to be legal and proper.

Excess availment of ITC on inward supplies on reconciliation of GSTR-9 for the year 2018-19 for an amount of Rs.16,06,954/- (CGST-Rs.8,03,477/- and SGST-Rs.8,03,477/-).

E. In the impugned Show Cause Notice, it was alleged that the tax payer has not correctly availed input tax on his inward supplies on reconciliation with GSTR-09 for the financial year 2018-19 and an amount of Rs.16,06,954/- (CGST-Rs.8,03,477/-

and SGST-Rs.8,03,477/-) (included in the total amount of Rs.20,63,272/- (CGST-Rs. 10,31,636/-, SGST:10,31,636/-) demanded vide Para 5(ii) of the impugned show cause notice)) was demanded under Section 73 of CGST Act, 2017/TGST Act, 2017 along with interest under Section 50 of CGST Act, 2017/TGST Act, 2017 and penalty also was proposed under Section 73 of CGST Act, 2017/TGST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017.

F. Whereas vide Para 13 (ii) of the impugned Order-In-Original, the Adjudicating Authority dropped the proceedings initiated in the show cause notice holding that on the same issue as detailed at Para 3.3.1 above, a show cause notice was issued by the Additional Commissioner, Hyderabad Audit-II Commissionerate vide Show Cause No. 06/23-24 dated 19.05.2023 in C.No. V/Audit-II/C-1/28/2021- 22/Gr-15 and the same was adjudicated by the Additional Commissioner, Secunderabad GST Commissionerate vide OIO No.28/2023-24 (Sec-Adjn-ADC)(GST), dated 12.10.2023.

G. However, as observed from the said OIO dated 12.10.2023 passed by the Additional Commissioner, Secunderabad GST Commissionerate vide OIO No. 28/2023-24 (Sec-Adjn-ADC)(GST), demand was made for tax liability of CGST & SGST of Rs 18,65,370/- (CGST-Rs. 9,32,685/-, SGST-Rs. 9,32,685/-) pertaining to the Financial Year 2018-19 and the same has been confirmed along with applicable interest and penalty. However, it appears that the adjudicating authority erred in dropping the current demand of Rs. 16,06,954/- without going into merits of the issue and without verifying whether the said amount of Rs. 16,06,954/- demanded in the impugned show cause notice of the current OIO is involved in the said amount of Rs.18,65,370/- which was confirmed along with applicable interest and penalty vide old OIO No. 28/2023-24 (Sec-Adjn-ADC)(GST), dated 12.10.2023. OIO does not appear to be legal and proper to this extent.

PERSONAL HEARING: -

4) Following the principles of natural justice, three opportunities for Personal Hearing were given to respondent on 29.01.2025, 07.03.2025 and 18.03.2025. However, the respondent neither availed the opportunity of attending personal hearing nor submitted any reply to the appeal.

FINDINGS:

5) I have gone through records of the case, impugned OIO and Grounds of appeal.

The issues in the instant case alongwith findings of the OIO, Contentions in the Appeal memo and my findings are discussed hereunder :

A) Under declaration of output tax on reconciliation of turnover in GSTR-01, GSTR-3B and GSTR-9 for the year 2018-19

It was alleged in the Show Cause Notice that the respondent has not correctly declared tax on his outward supplies on reconciliation of turnover in GSTR-01, GSTR-3B and GSTR-9 for the financial year 2018-19 and an amount of Rs. 27,66,974/- (CGST-Rs.13,83,487/- and SGST-Rs.13,83,487/-) was demanded under Section 73 of CGST Act, 2017/TGST Act, 2017 along with interest under Section 50 of CGST Act, 2017/TGST Act, 2017 and penalty also was proposed under Section 73 of CGST Act, 2017/TGST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017.

The Adjudicating Authority dropped the proceedings initiated in the show cause notice holding that on the same issue, a show cause notice was issued by the Additional Commissioner, Hyderabad Audit-II Commissionerate vide Show Cause Notice No. 06/23-24 dated 19.05.2023 in C.No. V/Audit-II/C-I/28/2021- 22/Gr-15 and the same was adjudicated by the Additional Commissioner, Secunderabad GST Commissionerate vide OIO No.28/2023-24 (Sec-Adjn-ADC)(GST), dated 12.10.2023 confirming the said demand.

Appellant contested that as observed from the said OIO dated 12.10.2023 passed by the Additional Commissioner, Secunderabad GST Commissionerate vide OIO No. 28/2023-24 (Sec-Adjn-ADC)(GST), demand was made for tax liability of CGST & SGST of Rs 27,16,554/- (CGST-Rs. 13,58,227/-, SGST-Rs.13,58,227/-) pertaining to the Financial Year 2018-19 and the same has been confirmed along with applicable interest and penalty which is less than the current demand i.e. Rs.27,66,974/- (CGST-Rs.13,83,487/- and SGST-Rs.13,83,487/-) proposed in the impugned Show cause notice pertaining to the current order-in-original, but the adjudicating authority dropped the demand without proper verification of the facts of the issue and without assigning any reasons for the difference in tax demanded.

B) Excess availment of ITC on inward supplies on reconciliation of GSTR-9 for the year 2018-19 for an amount of Rs.16,06,954/- (CGST-Rs.8,03,477/- and SGST-Rs.8,03,477/-).

It was alleged in the Show Cause Notice that the tax payer has not correctly

availed input tax on his inward supplies on reconciliation with GSTR-09 for the financial year 2018-19 and an amount of Rs. 16,06,954/- (CGST-Rs.8,03,477/- and SGST-Rs.8,03,477/-) (included in the total amount of Rs.20,63,272/- (CGST-Rs. 10,31,636/-, SGST:10,31,636/-) demanded vide Para 5(ii) of the impugned show cause notice)) was demanded under Section 73 of CGST Act, 2017/TGST Act, 2017 along with interest under Section 50 of CGST Act, 2017/TGST Act, 2017 and penalty also was proposed under Section 73 of CGST Act, 2017/TGST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017.

The Adjudicating Authority vide impugned Order-In-Original dropped the proceedings initiated in the show cause notice holding that on the same issue, a show cause notice was issued by the Additional Commissioner, Hyderabad Audit-II Commissionerate vide Show Cause No. 06/23-24 dated 19.05.2023 in C.No. V/Audit-II/C-I/28/2021- 22/Gr-15 and the same was adjudicated by the Additional Commissioner, Secunderabad GST Commissionerate vide OIO No.28/2023-24 (Sec-Adjn-ADC)(GST), dated 12.10.2023.

Appellant contested that as observed from the said OIO dated 12.10.2023 passed by the Additional Commissioner, Secunderabad GST Commissionerate vide OIO No. 28/2023-24 (Sec-Adjn-ADC)(GST), demand was made for tax liability of CGST & SGST of Rs 18,65,370/- (CGST-Rs. 9,32,685/-, SGST-Rs. 9,32,685/-) pertaining to the Financial Year 2018-19 and the same has been confirmed along with applicable interest and penalty. However, it appears that the adjudicating authority erred in dropping the current demand of Rs. 16,06,954/- without going into merits of the issue and without verifying whether the said amount of Rs. 16,06,954/- demanded in the impugned show cause notice of the current OIO is involved in the said amount of Rs.18,65,370/- which was confirmed along with applicable interest and penalty vide old OIO No. 28/2023-24 (Sec-Adjn-ADC)(GST), dated 12.10.2023.

Respondent in this regard neither submitted any reply nor availed the opportunity to attend personal hearing.

In view of the contentions raised in the Appeal memo, I found that the Adjudicating Authority has erred in dropping the demand of Rs. 27,66,974/- (CGST-Rs.13,83,487/- and SGST-Rs.13,83,487/-) towards Under declaration of output tax on reconciliation of turnover in GSTR-01, GSTR-3B and GSTR-9 for the year 2018-19 and Excess availment of ITC on inward supplies on reconciliation of GSTR-9 for the year 2018-19 for an amount of Rs.16,06,954/- (CGST-Rs.8,03,477/- and SGST-Rs.8,03,477/-).

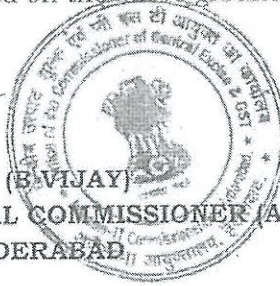
34

In view of the above findings and discussion, I pass the following order;

ORDER

The appeal filed by the appellant is allowed on the above grounds.

बी. विजय /
24/3/25



अपर आयुक्त (अपील-II) / **ADDITIONAL COMMISSIONER (APPEALS-II)**
हैदराबाद / **HYDERABAD**

To

1. Assistant Commissioner, Secunderabad GST Division, Secunderabad GST Commissionerate, Hyderabad.
2. M/s Nilgiri Estates, 2nd Floor, 5-4-187/3 and 4, Soham Mansion, MG Road, Secunderabad, Telangana-500003

Copy submitted to

1. The Commissioner of Customs and Central Tax, Secunderabad GST Commissionerate, Hyderabad
2. Master copy

Sd/-

(बी विजय) / (B VIJAY)
अपर आयुक्त (अपील-II) / **ADDITIONAL COMMISSIONER (APPEALS-II)**
हैदराबाद / **HYDERABAD**

35

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Customs & Central Tax
Appeals-II Commissionerate
7th Floor, GST Bhavan, LB Stadium Road
Basheerbagh, Hyderabad-500 004.

36





Outlook

37

Fw: ...intimation in R/o of Appeal filed by the Department in R/o of M/s Nilgiri Estates, against Order No.23/2024-25-Adjn-GST , Appeal No. 218/2024(SC)DGST-Regarding

From gst modi <gst@modiproperties.com>

Date Fri 18-Apr-25 3:59 PM

To Doni Sreeja <sreeja@hnaindia.com>

Cc Mamillapalli Kurumurthy <kurumurthy@hnaindia.com>; Narapuram Ranga Sumanth <sumanth.r@hnaindia.com>

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Regards,

M Jayaprakash

Sr.Manager - Finance & Accountants | +91 95022 88200 jayaprakash@modiproperties.com

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From: APPEALS 1 <appeals1.hydgst@gmail.com>

To: "gst@modiproperties.com" <gst@modiproperties.com>

Sent: Tuesday, March 11, 2025 at 04:27:43 PM GMT+5:30

Subject: ...intimation in R/o of Appeal filed by the Department in R/o of M/s Nilgiri Estates, against Order No.23/2024-25-Adjn-GST , Appeal No. 218/2024(SC)DGST-Regarding

Sir/Madam,

कृपया उपरोक्त विषय का संदर्भ लें।

Kindly refer to the above subject matter.

इस संबंध में, मुझे आपको यह सूचित करने का निदेश हुआ है कि अतिरिक्त आयुक्त अपील-1 आयुक्तालय, 7वीं मंजिल, जीएसटी भवन, बशीरबाग, हैदराबाद - 500004 के समक्ष व्यक्तिगत सुनवाई के लिए तीसरा और अंतिम अवसर दिनांक 18/03/2025 को दिया जाएगा।

In this regard, I am directed to inform you that the **third and final opportunity** for personal hearing before the **Additional Commissioner Appeals-I** Commissionerate, 7th Floor, GST Bhavan, Basheerbagh, Hyderabad - 500004 has been scheduled on : **18/03/2025**.

आपसे अनुरोध है कि आप **वर्चुअल मोड** में व्यक्तिगत सुनवाई के लिए उपस्थित होने की कृपा करें।

You are requested to appear for the personal hearing in **virtual mode**.

वर्चुअल पी.एच. विवरण/Virtual P.H. Details

दिनांक/Date

38

: 18/03/2025

दिन/Day

: मंगलवार/Tuesday

समय/Time

: 10:00 पूर्वाह्न/A.M. से/to 06:00 अपराह्न/P.M.

संपर्क/Contact No.

: 040-29700621

मोबाइल/Mobile

: 92105 90292 (श्री अनमोल/Sh. Anmol)

ईमेल/Email

: cgst.hydappeals1@gov.in

Kindly inform the available time (Between 10AM TO 6PM) on the above mentioned PH date so that link for attending Virtual PH may be shared. In case you wish to attend the Personal Hearing only in Physical mode, the same may be informed along with reasons and you may attend the Physical personal hearing on the above mentioned date.

आभारी

अपील-II आयुक्तालय,
जीएसटी भवन, बशीरबाग,
हैदराबाद-500004
संपर्क: - 040-29700621

Regards,

**Appeals I Commissioner,
GST Bhavan, Basheerbagh,
Hyderabad-500004.**

On Thu, 27 Feb 2025 at 10:54, APPEALS 1 <appeals1.hydgst@gmail.com> wrote:

Sir/Madam,

कृपया उपरोक्त विषय का संदर्भ लें।

Kindly refer to the above subject matter.

इस संबंध में, मुझे आपको यह सूचित करने का निदेश हुआ है कि अतिरिक्त आयुक्त अपील-II आयुक्तालय, 7वीं मंजिल, जीएसटी भवन, बशीरबाग, हैदराबाद - 500004 के समक्ष व्यक्तिगत सुनवाई के लिए तीसरा और अंतिम अवसर दिनांक 07/03/2025 को दिया जाएगा।

In this regard, I am directed to inform you that the **third and final opportunity** for personal hearing before the **Additional Commissioner Appeals-I Commissionerate**, 7th Floor, GST Bhavan, Basheerbagh, Hyderabad - 500004 has been scheduled on : 07/03/2025.

आपसे अनुरोध है कि आप वर्चुअल मोड में व्यक्तिगत सुनवाई के लिए उपस्थित होने की कृपा करें।

You are requested to appear for the personal hearing in **virtual mode**.

वर्चुअल पी.एच. विवरण/Virtual P.H. Details

दिनांक/Date

: 07/03/2025

दिन/Day

: शुक्रवार/Friday

समय/Time

39

: 10:00 पूर्वाह्न/A.M. से/to 06:00 अपराह्न/P.M.

संपर्क/Contact No.

: 040-29700621

मोबाइल/Mobile

: 92105 90292 (श्री अनमोल/Sh. Anmol)

ईमेल/Email

: cgst.hydappeals1@gov.in

Kindly inform the available time (Between 10AM TO 6PM) on the above mentioned PH date so that link for attending Virtual PH may be shared. In case you wish to attend the Personal Hearing only in Physical mode, the same may be informed along with reasons and you may attend the Physical personal hearing on the above mentioned date.

आभारी

अपील-II आयुक्तालय,
जीएसटी भवन, बशीरबाग,
हैदराबाद-500004
संपर्क: - 040-29700621

Regards,

**Appeals I Commissionerate,
GST Bhavan, Basheerbagh,
Hyderabad-500004.**

On Fri, 24 Jan 2025 at 15:09, <appeals1.hydgst@gmail.com> wrote:

महोदय/ महोदया,
Sir/Madam,

कृपया उपरोक्त विषय का संदर्भ लें।

Kindly refer to the above subject matter.

इस संबंध में, मुझे आपको यह सूचित करने का आदेश हुआ है कि यह अपील अपर आयुक्त, अपील-II आयुक्तालय, 7वीं मंजिल, जीएसटी भवन, बशीरबाग, हैदराबाद-500004 के समक्ष दिनांक : 29/01/2025 को व्यक्तिगत सुनवाई के लिए निर्धारित की गई है।

In this regard, I am directed to inform you that the Appeal is posted for personal hearing before the **Additional Commissioner Appeals-I Commissionerate, 7th Floor, GST Bhavan, Basheerbagh, Hyderabad - 500004** on : 29/01/2025

आपसे अनुरोध है कि आप **वर्चुअल मोड** में व्यक्तिगत सुनवाई के लिए उपस्थित होने की कृपा करें।

You are requested to appear for the personal hearing in **virtual mode**.

वर्चुअल पी.एच. विवरण/Virtual P.H. Details

दिनांक/Date

: 29/01/2025

दिन/Day

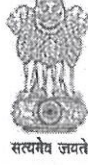
: बुधवार/Wednesday

समय/Time

: 10:00 पूर्वाह्न/A.M. से/to 06:00 अपराह्न/P.M.

P3

41



కస్టమ్స్ మరియు సెంట్రల్ టాక్స్ కమిషనర్ కార్యాలయం (అప్పీల్స్-I)
7వ అంతస్తు, GST భవన్ :LB స్టేడియం రోడ్, బషీర్ బాగ్, హైదరాబాద్, పిన్-500004

OFFICE OF THE COMMISSIONER OF CUSTOMS & CENTRAL TAX

APPEALS - II COMMISSIONERATE, HYDERABAD

7th Floor, GST Bhavan, L.B. Stadium Road, Basheer Bagh, Hyderabad, PIN-500004, Telangana.

Ph: 040-23234219/e-Mail: hydappeals.two@gmail.com

Appeal No: 343 & 337/2024(SC)GST

Date:18.02.2025

Appeal against the OIO No: 23/2024-25(GST-Adjn) & 25/2024-25(GST-Adjn)

Name of the Assessee: M/s. Nilgiri Estates & M/s. Villa Orchids.

Name & Designation of Authorized Representative: CA Laxman Kumar.

R. Laxman Kumar
18/02/2025

RECORD OF VIRTUAL PERSONAL HEARING (VPH)

M/s. Nilgiri Estates (343/2024(SC)GST):

The Authorized representative appeared for the VPH today on 18.02.2025. He told that he would withdraw the appeal as it is the case of interest and penalty.

Accordingly, the PH concluded.

M/s. Villa Orchids (337/2024(SC)GST):

The Authorized representative appeared for the VPH today on 18.02.2025. He explained the submissions made in the appeal highlighting:

1. The fact of payment of Rs 1,03,856/- and DRC03 submission & sought interest /penalty waiver.
2. Non availment/utilization of ineligible ITC & sought 3 days to submit CAA certificate also in support of his contention

Accordingly, the PH concluded.

(Vaishali Malhotra)

Commissioner (In-situ)

42

P-3

OIC

CA | **H N A & Co LLP**
INDIA | Chartered Accountants
(Formerly known as Hiregange & Associates LLP)

Date: 28-03-2025

To

**The Additional/ Joint Commissioner (Appeals-II) of Central Tax,
Hqrs Office, 7th Floor, L.B. stadium, Basheerbagh, Hyderabad-500004**

Dear Sir,

Sub: Request for withdrawal of APL-01 vide Appeal no.343/2024(SC)GST

Ref:

- a) Personal Hearing intimation received through mail and attended on 18-02-2025.
 - b) Appeal filed against the order received in form vide OIO Reference No. 23/2024-25 (GST Adjn) dated 19.04.2024 pertaining to M/s. Nilgiri Estates on 27-08-2024 physically to the department.
 - c) Order-In-Original issued vide Reference No. 23/2024-25 (GST-Adjn) dated 19.04.2024 pertaining to M/s. Nilgiri Estates for the FY 2018-19.
 - d) GSTIN: 36AAHFN0766F1ZA.
1. With reference to the above, we have been authorized by M/s. Nilgiri Estates to submit an appeal against the above-referred Order Dated 19.04.2024 but received on 24.04.2024 to represent before your good office and to do necessary correspondences in the above referred matter. A copy of the authorization along with proof of receipt of order is attached to the appeal.
 2. In above response we have filed an appeal in Form APL-01 against the OIO against above referred along with the relevant supporting documents. Further, we have also received the personal hearing intimation asking us to appear before your good self and we have attended the same on 18-02-2025.
 3. In this regard, we would like to bring to your knowledge that we have made the payment against the tax amount demanded in the order through the DRC-03 dated 16-10-2020 & 07-01-2020 and for the interest and penalty amount demanded in the order we would like to take the same as referred under section 128A.

Further we would like to submit that we are withdrawing the appeal that we have filed against the appeal against order received in form vide OIO Reference No. 23/2024-25 (GST-Adjn)



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Vijayawada | Kolkata | Raipur | Kochi | Indore | Ahmedabad | Comblatore

44

dated 19.04.2024 pertaining to M/s. Nilgiri Estates on 27-08-2024 physically to the department. As we have discharged the tax liability and for interest and penalty, we have relied on section 128A.

5. Hence, we would request your good self to consider the above submissions and drop further proceedings in this regard. We hope for a positive response in this regard.
6. We request you to kindly make a note that we are not agreeing for the demand confirmed in the above-referred order but the payment is made considering the amount involved. This payment cannot be considered as accepting the demand on merits and we reserve the right to contest the issue in subsequent years.

We sincerely regret the inconvenience caused to you in this regard. Kindly acknowledge the receipt of the above and do the needful.

Thanking You
Yours truly

**For M/s. H N A & Co. LLP,
Chartered Accountants**

LAKSHMAN
KUMAR KADALI

**CA Lakshman Kumar K
Partner**

Enclosures:

1. OIO Reference No-23/2024-25 (GST Ad[n] dated 19.04.2024
2. Personal hearing record dated 18-02-2020
3. DRC-03 dated 16-010-2020 & 07-01-2020

45

**BEFORE THE ADDITIONAL COMMISSIONER / JOINT COMMISSIONER
(APPEALS -II) OF CENTRAL TAX, HOSR OFFICE, 7TH FLOOR, L.B. STADIUM,
BASHEERBAGH, HYDERABAD - 500004.**

Sub: Filing of Appeal against Order-in-Original vide OIO: 23/2024-25 (GST-Adjn) dated 19.04.2024 in the case of M/s. Nilgiri Estates.

I, SOHAM MODI, PARTNER of M/s. Nilgiri Estates, hereby authorizes and appoint H N A & Co. LLP, Chartered Accountants, Bangalore or their partners and qualified staff who are authorized to act as an authorized representative under the relevant provisions of the law, to do all or any of the following acts: -

- To act, appear and plead in the above-noted proceedings before the above authorities or any other authorities before whom the same may be posted or heard and to file and take back documents.
- To sign, file verify, and present pleadings, applications, appeals, cross-objections, revision, restoration, withdrawal, and compromise applications, replies, objections and affidavits etc., as may be deemed necessary or proper in the above proceedings from time to time.
- To Sub-delegate all or any of the aforesaid powers to any other representative and I/Appellant do hereby agree to ratify and confirm acts done by our above-authorized representative or his substitute in the matter as my/our own acts as if done by me/us for all intents and purposes.

This authorization will remain in force till it is duly revoked by me/us
Executed this on 26.08.2024 at Hyderabad

Signature

I, the undersigned partner of M/s H N A & Co. LLP, Chartered Accountants, do hereby declare that the said M/s H N A & Co. LLP is a registered firm of Chartered Accountants, and all its partners are Chartered Accountants holding certificate of practice and duly qualified to represent in above proceedings under Section 116 of the CGST Act, 2017. I accept the above-said appointment on behalf of M/s H N A & Co. LLP. The firm will represent through any one or more of its partners or Staff members who are qualified to represent before the above authorities.

Dated: 26.08.2024

Address for service:

H N A & Co. LLP
Chartered Accountants,
4th Floor, West Block, Anushka Pride,
above Lawrence & Mayo,
Road Number 12, Banjara Hills,
Hyderabad, Telangana 500034.

For HNA & Co. LLP
Chartered Accountants

Lakshman Kumar K
Partner (M.No. 241726)

I, Partner/employee/associate of M/s H N A & Co. LLP duly qualified to represent in above proceedings in terms of the relevant law, also accept the above said authorization and appointment.

Sl No.	Name	Qualification	Mem. /Roll No.	Signature
1	Sudhir V S	CA	219109	
2	Venkata Prasad P	CA/LLB	AP/3511/2023	
3	Srimannarayana S	CA	261612	
4	Akash Heda	CA	269711	
5	P. Manikanta	CA	277705	

