

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

MONDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO**

WRIT PETITION NO: 10104 OF 2013

Between:

Hire Bus Owners Welfare Association, having its office at Flat No. 208, Residency Apartments, 1-1-1293/1, Ashoknagar, Hyderabad rep. by its President

...PETITIONER

AND

1. The Union of India, Rep. by the Cabinet Secretary, Ministry of Finance, Department of Revenue, New Delhi
2. The Director General (Service Tax), Directorate of Service Tax, Mumbai Department of Revenue, Ministry of Finance, Government of India.
3. The Chief Commissioner of Central Excise Hyderabad - I, Kendriya Shulk Bhavan, L.B.Stadium Road, Basheerbagh, Hyderabad - 4
4. The Chief Commissioner of Central Excise Hyderabad - II, Kendriya Shulk Bhavan, L.B.Stadium Road, Basheerbagh, Hyderabad - 4
5. The State of Andhra Pradesh, Rep. by the Secretary, Transport Department, Secretariat, Hyderabad.
6. A.P. State Road Transport Corporation, Bus Bhavan, RTC Cross Roads, Musheerabad rep by the Chairman and Managing Director.

...RESPONDENTS

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 to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring that Petitioners members, who hired their buses to the APSRTC for public transportation, will not come under the definitions of Rent-a-cab Scheme Operator and Service defined under Sec.65(91) and Sec.65B(44) of the Finance Act, 1994 and also declaring the action of the Respondents 1 to 4 and their subordinates in imposing on and

demanding service tax from the Petitioners members as illegal, unjust, arbitrary, irrational, unreasonable, without jurisdiction and violative of Articles 14, 19, 21 and 300-A of the Constitution of India, if necessary by reading down the proviso to Sec.65(20) of the Finance Act includes the buses hired to APSRTC for public transportation and consequently direct the respondents not to impose or demand service tax from the Petitioners members

I.A. NO: 2 OF 2013(WPMP. NO: 12557 OF 2013)

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 and their subordinates not to take any coercive steps, including collection of service tax from 1.6.2007 to 30.6.2012, against the members of the petitioner association pending disposal of the above writ petition

I.A. NO: 1 OF 2013(WVMP. NO: 2540 OF 2013)

Between:

1. The Union of India, Rep. by the Cabinet Secretary, Ministry of Finance, Department of Revenue, New Delhi
2. The Director General (Service Tax), Directorate of Service Tax, Mumbai Department of Revenue, Ministry of Finance, Government of India.
3. The Chief Commissioner of Central Excise Hyderabad - I, Kendriya Shulk Bhavan, L.B.Stadium Road, Basheerbagh, Hyderabad - 4
4. The Chief Commissioner of Central Excise Hyderabad - II, Kendriya Shulk Bhavan, L.B.Stadium Road, Basheerbagh, Hyderabad - 4

AND

....PETITIONERS

1. M/s. Hire Bus Owners Welfare Association, having its office at Flat No. 208, Residency Apartments, 1-1-1293/1, Ashoknagar, Hyderabad rep by its President
2. The State of Andhra Pradesh, Rep. by the Secretary, Transport Department, Secretariat, Hyderabad.
3. A.P. State Road Transport Corporation, Bus Bhavan, RTC Cross Roads, Musheerabad rep by the Chairman and Managing Director.

...RESPONDENTS

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 vacate the interim Order made in WP No. 10104/2013 dated 09.04.2013.

IA NO: 1 OF 2019

Between:

1. The Union of India, Rep. by the Cabinet Secretary, Ministry of Finance, Department of Revenue, New Delhi
2. The Director General (Service Tax), Directorate of Service Tax, Mumbai Department of Revenue, Ministry of Finance, Government of India.
3. The Chief Commissioner of Central Excise Hyderabad - I, Kendriya Shulk Bhavan, L.B.Stadium Road, Basheerbagh, Hyderabad - 4
4. The Chief Commissioner of Central Excise Hyderabad - II, Kendriya Shulk Bhavan, L.B.Stadium Road, Basheerbagh, Hyderabad - 4

....PETITIONERS/RESPONDENT Nos. 1to4

AND

1. Hire Bus Owners Welfare Association, having its office at Flat No. 208, Residency Apartments, 1-1-1293/1, Ashoknagar, Hyderabad rep by its President

...RESPONDENT/WRIT PETITIONER

2. The State of Andhra Pradesh, Rep. by the Secretary, Transport Department, Secretariat, Hyderabad.
3. A.P. State Road Transport Corporation, Bus Bhavan, RTC Cross Roads, Musheerabad rep by the Chairman and Managing Director.

...RESPONDENTS/RESPONDENTS 5&6

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 vacate interim orders dated 09.04.2013 passed in W.P.M.P.No.12557 of 2013 in W.P. No.10104 of 2013 in the interest of justice

Counsel for the Petitioner: SRI. KIRAN KUMAR REP. SRI K. R. PRABHAKAR

**Counsel for the Respondent Nos. 1 to 4: SRI JALAKAM SATHYARAM
SENIOR S.C. FOR CENTRAL EXCISE, CUSTOMS AND SERVICE TAX**

Counsel for the Respondent No.5: GP FOR TRANSPORT

Counsel for the Respondent No.6: SRI THOOM SRINIVAS, S.C. FOR T.S.R.T.C

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

WRIT PETITION No.10104 of 2013

ORDER: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. Kiran Kumar, learned counsel represents
Mr. K.R. Prabhakar, learned counsel for the petitioner.

2. In this writ petition, the petitioner *inter alia* has
prayed for the following relief:

“For the reasons stated in the accompanying affidavit, the petitioner humbly prays that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring that Petitioner's members, who hired their buses to the APSRTC for public transportation, will not come under the definitions of 'Rent-a-cab Scheme Operator' and 'Service' defined under Sec.65(91) and Sec.65B(44) of the Finance Act, 1994 and also declaring the action of the Respondents 1 to 4 and their subordinates in imposing on and demanding service tax from the Petitioner's members as illegal, unjust, arbitrary, irrational, unreasonable, without jurisdiction and violative of Articles 14, 19, 21 and 300-A of the

Constitution of India, if necessary by reading down the proviso to Sec.65(20) of the Finance Act includes the buses hired to APSRTC for public transportation and consequently direct the respondents not to impose or demand service tax from the Petitioner's members and pass such other order or orders as are deemed fit and proper in the circumstances of the case."

3. It appears that the cause in the writ petition does not survive for consideration. Therefore, the writ petition is disposed of with liberty to the petitioner to make an application for revival of the writ petition in case the petitioner wishes to prosecute the same.

Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

Sd/- P. PADMANABHA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Cabinet Secretary, Union of India, Ministry of Finance, Department of Revenue, New Delhi
2. The Director General (Service Tax), Directorate of Service Tax, Mumbai Department of Revenue, Ministry of Finance, Government of India.
3. The Chief Commissioner of Central Excise Hyderabad - I, Kendriya Shulk Bhavan, L.B.Stadium Road, Basheerbagh, Hyderabad - 4
4. The Chief Commissioner of Central Excise Hyderabad - II, Kendriya Shulk Bhavan, L.B.Stadium Road, Basheerbagh, Hyderabad - 4
5. The Secretary, Transport Department, Secretariat, T.S., Hyderabad.
6. The Chairman and Managing Director T.S. State Road Transport Corporation, Bus Bhavan, RTC Cross Roads, Musheerabad
7. One CC to SRI K. R. PRABHAKAR, Advocate [OPUC]
8. One CC to SRI JALAKAM SATHYARAM, Senior S.C. for Central Excise, Customs and Service Tax [OPUC]
9. One CC to SRI THOOM SRINIVAS, S.C. for T.S.R.T.C [OPUC]
10. Two CCs to GP for Transport High Court for the State of Telangana, at Hyderabad [OUT]
11. Two CD Copies

B M
MP

HIGH COURT

DATED:30/09/2024

ORDER

WP.No.10104 of 2013



*18
copies
23/11/2024*

**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**