APHC010024062021

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3458]
(Special Original Jurisdiction)

TUESDAY, THE 6th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

WRIT PETITION NO: 1699/2021

Between:

Goondla Venkateswarlu **...PETITIONER**

AND

State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. PARTY IN PERSON

Counsel for the Respondent(S):

1. ADDL ADVOCATE GENERAL II

APHC010165812021

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3458]
(Special Original Jurisdiction)

TUESDAY, THE 6th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

WRIT PETITION NO: 9375/2021

Between:

Goondla Venkateswarlu **...PETITIONER**

AND

The State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. PARTY IN PERSON

Counsel for the Respondent(S):

1. ADDL ADVOCATE GENERAL II

APHC010126232020

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3458]**
(Special Original Jurisdiction)

TUESDAY, THE 6th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

WRIT PETITION NO: 14708/2021

Between:

Goondla Venkateswarlu **...PETITIONER**

AND

The State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. PARTY IN PERSON

Counsel for the Respondent(S):

1. GP FOR SERVICES I
2. GP FOR COMMERCIAL TAX
3. .

APHC010024212021

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3458]
(Special Original Jurisdiction)

TUESDAY, THE 6th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

WRIT PETITION NO: 1719/2021

Between:

Goondla Venkateswarlu **...PETITIONER**

AND

The State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. PARTY IN PERSON

Counsel for the Respondent(S):

1. ADDL ADVOCATE GENERAL II

APHC010148002021

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3458]
(Special Original Jurisdiction)

TUESDAY, THE 6th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

WRIT PETITION NO: 10828/2021

Between:

Goondla Venkateswarlu **...PETITIONER**

AND

The State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. PARTY IN PERSON

Counsel for the Respondent(S):

1. ADDL ADVOCATE GENERAL II

APHC010165912021

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3458]
(Special Original Jurisdiction)

TUESDAY, THE 6th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

WRIT PETITION NO: 11193/2021

Between:

Goondla Venkateswarlu **...PETITIONER**

AND

The State Of Ap and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. PARTY IN PERSON

Counsel for the Respondent(S):

1. ADDL ADVOCATE GENERAL II

The Court made the following:

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

WRIT PETITION NOS: 1699, 9375 & 14708 /2021 & 1719, 10828 & 11193/2021

COMMON ORDER:-

Heard Sri Goondla Venkateshwarlu, appearing in person, and Sri Kalyan Chakravarthy, learned counsel appearing on behalf of Sri Evana Sambasiva Pratap, learned Additional Advocate General-II, for the respondents.

2. As the issues involved in all the six Writ Petitions are same, they were heard together. It is deemed appropriate to dispose of all the Six Writ Petitions through this 'Common Order'. For brevity, W.P. No.1699 of 2021 is taken as lead case.

3. The common allegations against the petitioner in all the cases is that the petitioner, while discharging the duties of Joint Commissioner of Commercial Taxes, committed irregularities in granting refund in respect of six different dealers for the tax periods 2005-06, 2007-08 and 2008-09, 2009-10, without due regard to the provisions of Sec.22(3A) APVAT Act, 2005 and Rule 18(3)B of APVAT Rules, 2005.

4. The petitioner retired from the service as Commissioner of State Tax, Office of the Chief Commissioner of State Tax, on 31.07.2020. Just before the superannuation, the petitioner was issued the impugned

proceedings, proposing to hold an enquiry against the petitioner under Rule 20 of the APCS (CC & A) Rules, 1991. The details of the same are as follows:

S.NOS.	W.P.NOS.	G.O.RT. Nos.	Names of the Dealers	For the years	Amount Refunded
1.	1699/2021	603 dated 28.07.2020	M/s. Kirloskar Brothers Ltd.,	2008-09	Rs.3,49,63,199/-
2.	9375/2021	844, 14.06.2018	M/s. S.E.W. Infrastructure Ltd.,	2009-10	Rs.3,44,55,826/-
3.	14708/2021	1076 dated 02.11.2016	M/s. Gayathri Projects (P) Limited,	2005-06 & 2009-10	Rs.11,22,64,773/-
4.	1719/2021	888 dated 21.06.2018	M/s. Ratna Infrastructure Projects (P) Limited	2007-08 & 2008-09	Rs.3,22,99,052/- & Rs.3,06,82,461/- (+) Rs.23,58,623/- Total:- Rs.6,53,40,136/-
5.	10828/2021	1584, 15.11.2018	M/s. A.V. Rambabu	2007-08 & 2008-09	Rs.1,78,44,458/-
6.	11193/2021	604, 28.07.2020	M/s. Variegate Projects (P) Ltd.,	2007-08 & 2008-09	Rs.3,98,32,460/-

5. It is contended that, *vide* the impugned proceedings, disciplinary action was initiated against the petitioner for alleged misconduct in ordering refund of Rs.3,49,63,199/- for the year 2008-09 in favour of M/s. Kirloskar Brothers Ltd , a registered dealer, in disregard of provisions of Section 22(3A) of APVAT Act, 2005, Section 57 of APVAT Act, 2005 read with Rule 18(3)(b)

of APVAT Rules, 2005 and the relevant G.Os., and the Circulars issued in the said regard.

6. It is alleged that the petitioner had failed to exercise due diligence while approving and granting the refund thus caused loss of Rs.3,49,63,199/- to the exchequer and the same was considered as dereliction of duties, willful negligence and Criminal misconduct.

7. The petitioner was asked to submit his explanation as to why action should not be initiated under the APCS (Conduct) Rules, 1964. The petitioner contends that the Vigilance and Enforcement Department conducted an inquiry based on an allegation that the petitioner approved the alleged illegal refund of taxes instead of forfeiting the same to the State. It is further contended that, while issuing the impugned proceedings, the respondents relied upon certain documents that were never furnished to the petitioner. Against the refund order approved by the petitioner, the revision authority passed an order of revision dated 21.03.2014 bringing to tax an amount of Rs.3,09,86,087/-.

8. The petitioner further contends that the impugned charge memo is vitiated by inordinate delay, given that the impugned proceedings were initiated only after the alleged irregular refund, around 10 years later. The petitioner further contends that the assessment orders were subjected to revision by the Commissioner, State Tax, *vide* order dated 21.03.2014,

bringing to tax a sum of Rs.3,09,86,087. Similarly in other cases also, the said orders of revision were challenged by way of Writ Petition/Special Appeal and are pending before the High Court, and the operation of the orders of revision are suspended. It is contended that after the subject processing of refunds, the petitioner was promoted to the post of 'Additional Commissioner of Commercial Taxes' on 09.05.2013 even while the allegations against the petitioner were subsisting.

9. It is contended that initiation of the disciplinary proceedings against the petitioner is unsustainable. It is contended that the allegation that the petitioner did not consider the provisions of Section 22(3A) of the APVAT Act, 2005, is misconceived as the Section 22(3A) of the Act has no application to the present case as the same is relating to tax collection at source (TCS), which does not confer any power of forfeiture. It is further contended that Section 22(3A) applies only to works executed for the State Government or local bodies, whereas the contracts in question were executed for APGENCO/ HMWSSB and other corporations, which are distinct legal entities from the State Government.

10. The learned counsel for the petitioner argues that the issue relates to the year 2008-09. Section 22(3A) was not in the statute book at that time before 24.09.2008. In the absence of any retrospective effect being given to the same, the application of the same would not arise to the present facts of

the case. Similarly, the petitioner contends that Rule 18(3)(b) of the APVAT Rules, 2005, is also not applicable to the case on hand. The said Rule 18(3)(b) was introduced only with effect from 01.05.2009, whereas the refund relates to 2008-09. The provision cannot be applied retrospectively. The petitioner further contends that Section 57 of the Act also does not apply to the case on hand. It is further pleaded that refund in issue pertains to excess tax of the earlier assessment year, which was subsequently adjusted towards tax liability. Therefore, the allegation of wrongful refund is misconceived.

11. It is contended that Section 22(3A) of the APVAT Act, 2005, read with Rule 18(3)(b) of the APVAT Rules, 2005, cannot be invoked for refunds already processed relating to the period before the relevant provisions came into force. Charge Memo proceeds on an erroneous assumption that the petitioner ought to have forfeited the refund under Section 57 of the APVAT Act, Rule 18(3)(b) of the APVAT Rules and Section 22(3A) of the Act, though none of these provisions are applicable. It is further contended that there is no allegation in the vigilance report that the petitioner had contravened the statutory provisions. At best, the dispute is only regarding interpretation of law and not non-consideration of the provisions. It is further contended that G.O.Ms.No.94 dated 01.07.2003 was never communicated/circulated for implementation to the Commercial Taxes Department or refund sanctioning authorities. It is therefore submitted that the petitioner could not have acted upon the said Government Order. Circular dated 04.06.2008 was issued by

the Joint Commissioner and not by the Commissioner, as alleged in the Charge Memo. It is further argued that Circular dated 26.03.2013 cannot govern refund orders passed on 20.05.2011. It is further contended that in the Vigilance Reports it was observed that Section 57 of the Act is not applicable to works contracts, supporting the petitioner's stand. The refund orders are quasi-judicial orders passed on interpretation of statutory provisions. Even assuming the interpretation is erroneous, it cannot constitute misconduct.

12. The petitioner who appeared in person to present his case, contends that the alleged loss, if any, has already been addressed by revision proceedings under the APVAT Act. Demand has already been raised and recovery proceedings of the disputed refunds are pending. Hence, disciplinary proceedings are unwarranted. It is argued that difference between applying Section 22(3) and Section 22(3A) is merely a difference of legal opinion and not misconduct. In the absence of any allegation of mala fides, illegal gratification, extraneous consideration or dishonest intention is made against the petitioner Charge memo is contrary to settled law that an erroneous quasi-judicial decision, without corrupt motive, does not amount to misconduct. In the said regard placed reliance on decision of the apex court in the cases of ***Union of India & Others Vs. J. Ahmed*** [1] ***and Chairman and M.D. BPCL Vs. T.K. Raju***[2]. It is further argued that disciplinary proceedings are also vitiated by non-supply of relied upon documents and annexure to Vigilance Report

[1] 1979 (2) SCC 236
[2] 2006 (3) SCC 143

No.89, contrary to Rule 20 of the CCA Rules. Thus argues that assumption of jurisdiction by the Inquiry Officer without compliance with mandatory procedural requirements under Rule 20 of the CCA Rules vitiates the proceedings. Thus prays for set aside of the impugned proceedings. The petitioner has brought to the notice of the court, the proceedings of the in G.O.Rt. No.1184 dated 08.07.2026.

13. Respondents filed counter-affidavits and it is argued that Writ petition is not maintainable as it seeks to stall disciplinary proceedings at the threshold and amounts to seeking a pre-determination of issues which are required to be examined in the departmental inquiry. Delay in initiation of disciplinary proceedings is on account of State bifurcation, and reallocation of officers between the States. Disciplinary proceedings are maintainable and the petitioner cannot claim immunity merely because the impugned orders were passed in exercise of quasi-judicial functions. It is contended that the petitioner sanctioned refund of approximately Rs.3.49 Crores in favour of Kirloskar Brothers Ltd. contrary to the statutory provisions, resulting in wrongful loss to the Government and corresponding unjust enrichment of the contractor. VAT component was never borne by the contractor, as the tax had already been deducted at source (TDS) from Government payments. Therefore, sanction of refund amounted to refunding Government money to a person who had not actually suffered the tax burden. It is argued that Refund was sanctioned in violation of Sections 22(3) and 22(3A) of the APVAT Act,

Rule 18(3)(b) of the APVAT Rules, relevant Government Orders, EPC guidelines, and the circular instructions issued by the Commissioner dated 04.06.2008 and 26.03.2013. The contention of the petitioner that Section 22(3A) is not applicable to sub-contractors is not a tenable argument. By virtue of Rule 18(1)(e), TDS credit is transferred to the sub-contractor through Form 501B, and the statutory restrictions governing refund equally apply.

14. It is further contended that the petitioner failed to verify the mandatory conditions before sanctioning the refund, thereby acting in breach of his official duties and financial responsibilities. Refunds which are the subject matter of revision or other statutory proceedings cannot be released in violation of the statutory scheme. Refuting the argument of the petitioner that the copies of the material which formed the basis for issuance of the impugned proceedings were not furnished it is stated by the respondents that Vigilance report, relevant Government Orders, and supporting material were furnished through Registered Post, and inspection of records was also offered. Hence, the allegation of violation of principles of natural justice is without basis. The Charge Memo cannot be quashed merely because every relied-upon document was not enclosed. At the stage of disciplinary proceedings, reasonable opportunity to inspect records is sufficient compliance with procedural requirements.

15. It is argued that mere reference to an incorrect provision, in the charge memo is a curable irregularity and does not invalidate the disciplinary proceedings when the substance of the charges remains clear. The petitioner has an effective alternative remedy of submitting his explanation and participating in the departmental inquiry. Instead of availing the statutory process, he has prematurely invoked the writ jurisdiction. In exercise of jurisdiction under Articles 226 and 227, the High Court does not ordinarily interfere with charge memos or ongoing disciplinary proceedings, nor does it re-appreciate evidence at the threshold unless the proceedings are wholly without jurisdiction. The issues raised by the petitioner involve disputed questions of fact requiring examination of records and evidence during the inquiry and cannot be adjudicated in writ proceedings, hence, liable to be dismissed.

16. The respondent further contends that the petitioner's interpretation of statutory provisions as they existed at the relevant time and its application of law constituted misconduct, and that disciplinary action was recommended against the petitioner and the co-charged officers, *i.e.,* the assessing authority and processing authorities. After the state bifurcation in 2014, the respective state governments have initiated disciplinary action against the said officers. The other officers have challenged the disciplinary proceedings before the erstwhile composite High Court for the State of Telangana and Andhra Pradesh *vide* W.P.Nos.18842, 31020, 31620, 31205,

32681 & 32599 of 2017 and W.P.No.16392 of 2018. In the said Writ Petitions, the disciplinary enquiry proceedings were suspended.

17. The respondents in support of their contention relied on the judgments of the Hon'ble Apex Court in the cases of ***Union of India & Others Vs. K.K. Dhawan[3] and Union of India & Others Vs. Dulichand,[4]*** where it was held that disciplinary action is permissible where quasi-judicial powers are exercised negligently or in abuse of authority.

18. The petitioner in reply argues that in respect of W.P. Nos.1699 of 2021,14708 of 2021 and 9375 of 2021, the dealers in the said Writ Petitions have executed works as subcontractors, therefore the same would not fall under the TCS regime, rather pertains to TDS in terms of VAT 501B Form.

> *"2. 1st Batch: W.P. Nos.1699 of 2021,14708 of 2021 and 9375 of 2021:*
>
> *(a) The dealers have executed works only as sub-contractors, receiving the amount in issue vide form VAT 501B as transferred TDS. Hence, the amount in issue is not the TCS amount falling under Section 22(3A) of the AP VAT Act, 2005 and Rule 18(3)(b) of the APVAT Rules. Hence, the issue is covered in favour of the petitioner by the decision of the High Court of Telangana in the case of* ***Bekem Infra Projects Pvt. Ltd., Hyderabad vs. A. C. (S. T.),*** *is W.P. No.41918 of 2018, dated 12.03.2019 (Exhibit 58 in W.P. No. 9375 of 2021).*

[3] (1993) 2 SCC 56
[4] 2006 (5) SCC 685

(b) In the revision orders in W.P. No. 9375 of 2021(Exhibit 17 of W.P. No. 9375 of 2021, at W.P. page No.180), the Respondent No.2 also admitted that the amount in issue is only the TDS amount.
(c) The same is admitted at para 7 of the Counter Affidavit of the respondent in W.P.No.9375 of 2021.

19. Considered the rival submissions and perused the material available on record.

20. The Department alleges that the petitioner erroneously approved the refund of Rs.3,09,86,087/-, which ought not to have been refunded to the dealer, as it is prohibited under Section 22(3) and Section 22(3A) of the APVAT Act, 2005. It is further contended by the Department that, under Rule 18(3)(b) of the VAT Rules, the refund is deemed to be the VAT liability of the dealer and is liable to be forfeited under Rule 18(3)(b) of the APVAT Rules. Notwithstanding the provisions of the Act and the Rules, the petitioner approved a refund prejudicial to the interests of the revenue and amounted to misconduct and dereliction of duty.

21. The petitioner's contention in the said regard is that Section 22(3A) of the APVAT Act, 2005 and Rule 18(3) (b) of APVAT Rules, 2005, were not in the statute book at the relevant time relevant to the subject tax period. They were introduced only subsequently. Section 22(3A) was introduced with effect from 24.09.2008, and Rule18(3)(b) came into effect with effect from 01.05.2009, and the applicable provision at the relevant point in

time provides for deduction of tax at the rate applicable while making payment to the contractor, and the said Section would not provide for forfeiture. As the subject assessment was before the relevant provisions came into force, the Department cannot find fault with the quasi-judicial authority's decision to refund the amount. The Assessing Officer's order and the quasi-judicial authority's order are the subject matter of revision proceedings.

22. The further contention of the petitioner is that the dealers had executed the works relating to the Government contracts as subcontractors of the main contractors. It is submitted that the main contractor executed subcontracts in favour of the dealers for the works of the government, and passed on the TDS/TCS received from the contractee to the subcontractor (the dealer), and issued the relevant VAT forms. In a case of TDS, the provisions of Rule 18(3)(b) of the APVAT Rules, 2005, would not apply. The Department, alleges that the petitioner failed to exercise due diligence while approving the refunds in favour of the dealers, having regard to the provisions of Section 22(3A) of the APVAT Act, 2005, and Rule 18(3)(b) of the APVAT Rules, 2005.

23. In my considered view as the relevant rules were brought into effect only after the relevant subject tax period. In light of this, it cannot be said that the petitioner failed to exercise due diligence in approving the refund,

nor can it be termed dereliction of duty in the absence of any other allegations of lack of integrity or corruption.

24. A quasi-judicial authority, either while passing an order of assessment or a consequential order of approval of refund, out of two possible views on the issue, if takes a view, which is in favour of the assessee, and according to the revenue, if the said decision causes prejudice and loss to the revenue, the Act provides for the exercise of revisionary jurisdiction. The order of refund on the basis of facts and the legal position, processed by the petitioner will not constitute misconduct or, dereliction of duty in the absence of any allegation that the decision/order of refund was influenced by extraneous considerations. The orders of assessment are subject matter of Revision under the provisions of the A.P VAT Act, 2005. Merely because an order was subjected to Revision cannot be considered dereliction of duty on the part of the petitioner in approving the refund order pursuant to the assessment order; in the absence of any other allegations of misconduct or corruption, the petitioner cannot be subjected to disciplinary proceedings.

25. In the facts and circumstances of the present case, the provisions of the statute and the relevant Rules, which were alleged to have been ignored, were not on the statute book during the period relevant to the subject tax period. In this regard, reliance is placed on the decisions of the Hon'ble Apex Court in the case of ***Zunjar Rao Bhikaji Nagarkar Vs. Union of India***

and Others[5], and in the case of ***Amresh Shrivatsava Vs. The State of Madhya Pradesh & Others[6],*** wherein it has been observed as under:-

> *"16. In the present case, we are of the considered view that the charges alleged against the Appellant in the charge sheet fall under the category of a wrongful order, which does not appear to have been influenced by extraneous factors or any form of gratification. It appears that the order has been passed in good faith, without any indication of dishonesty. Furthermore, the facts outlined in the Show Cause Notice do not suggest any such impropriety. The power exercised by the Appellant in his capacity as a Tahsildar, while passing the order of Land Settlement Order, cannot be considered of a nature that would warrant disciplinary proceedings against him. The decision relied upon by the Counsel for the Appellant as mentioned above, supports this view. Consequently, the first question is answered in favor of the Appellant."*

26. The basis for initiating disciplinary proceedings against the petitioner is that, while approving the refund, the petitioner did not give due regard to the statutory provisions, which, according to the disciplinary authority, constitutes a gross dereliction of duty. The order of assessment, from which the refund proceedings emanated, or which formed the basis of the disciplinary proceedings, was subjected to statutory revision by the Department. It is observed in the said revision orders that the dealers in whose favour the refund was approved were executing the works as subcontractors and not as contractors, however, as the main contractor was a

[5] 1999 (7) SCC 409
[6] 2025 SCC Online SC 693

joint venture as it is not a registered VAT dealer and when the contractee i.e., the government awarded certain works to such a main contractor and when such works contracts were wholly or partly sub-contracted to the dealers, it is implied that the dealers have a privity of contract with the Government. The appeals filed by the dealers against the said orders of Revision are pending adjudication before the High Court of Telangana. The order of assessment, which resulted in the grant of refund, was approved by the petitioner, being a Joint Commissioner (CT). The order of refund was passed in the exercise of his quasi-judicial functions; such adjudication is based on the applicable provisions of the Act and the Rules. Conclusions arrived at by the quasi-judicial authority on a certain legal issues by interpretation of statutes and judgment law constitutes an error of judgment, such an error in the absence of allegations of mala fides, corruption, extraneous considerations, or deliberate violation of statutory provisions, cannot, by themselves, be considered as gross misconduct or dereliction of duties warranting disciplinary action. On the other hand, the provisions of the APVAT Act, viz., Sec.22(3A) and Rule 18(3)(b) of the APVAT Rules, as observed *supra*, were not in the statute book for the period relevant to the subject tax periods. As noted from orders passed under Sec.32 of the APVAT Act, it is implied that the dealers have privity of contract with the Government. Therefore, the petitioner who has approved refund in good faith on the basis of law as it existed at the relevant tax period and on the basis of facts cannot be subjected to harsh measure of disciplinary

proceedings in the absence of any allegation of mala fides or dishonest intention or corruption.

27. With the above observations, the Writ Petitions are disposed of by setting aside the impugned proceedings of Charge Memo issued *vide*, G.O.Rt.No.603, dated 28.07.2020, G.O.Rt.No.844, dated 14.06.2018, G.O.Rt.No.1076, dated 02.11.2016, G.O.Rt.No.888, dated 21.06.2018, G.O.Rt.No.1584, dated 15.11.2018 and G.O.Rt.No.604, dated 28.07.2020. Consequently, the petitioner shall be entitled to the release/payment of his pensionary and other retirement benefits, including GPF, gratuity, leave encashment and other admissible benefits, if any. Insofar as the petitioner's claim for payment of interest on the delayed retirement benefits is concerned, the petitioner is at liberty to submit an appropriate representation/application before the concerned Department, which shall consider and dispose of the same in accordance with law. There shall be no order as to costs.

As a sequel, all pending miscellaneous applications shall stand closed.

JUSTICE KIRANMAYEE MANDAVA

Dated:06.10.2026
MVK

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THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

WRIT PETITION NOS: 1699, 9375 & 14708 /2021 & 1719, 10828 & 11193/2021

Date:06.10.2026

MVK