

(2025) 12 AP CK 1364

Andhra Pradesh HC

Case No: Writ Petition No: 32737 Of 2025

M/S. RK Infracorp Private Limited

APPELLANT

Vs

Assistant Commissioner State
Tax, Kadapa-Lcircle, Kadapa
Division & Others

RESPONDENT

Date of Decision: Dec. 31, 2025

Acts Referred:

- Central Goods And Services Tax Act, 2017 - Section 50

Hon'ble Judges: R Raghunandanrao, J; T.C.D. Sekhar, J

Bench: Division Bench

Advocate: Karthik Ramana Puttamreddy, Santhi Chandra

Final Decision: Disposed Of

Judgement

T.C.D. Sekhar, J

1. The petitioner is a registered dealer under GST Act bearing Registration No.GSTIN 37AAECR0071P1Z2 having engaged in the business of Works Contract. The 1st respondent conduct audit in respect of petitioners books of accounts for the year 2021-22 and 2022-23. After the audit the petitioner was issued with show cause notice in Form DRC-01 proposing to levy differential rate of tax @ 6% on the ground that the petitioner has wrongly paid output tax @ 12% instead of 18% on the Infrastructure Development Works (laying of internal roads) as per the Work Order and Agreements dated 25.02.2019 and 08.03.2019 entered into with the 2nd respondent.

2. The 1st respondent in pursuance of the show cause notice, taken up the assessment and passed adjudication order dated 14.08.2025 whereby and whereunder levied tax for a sum of Rs.1,65,52,848/- each under SGST and CGST i.e., tax @ 18% in respect of works executed by the petitioner for the 2nd respondent. Apart from the same, the 1st respondent also levied interest under Section 50 of the

Act and also penalty @ 10% which was quantified as Rs.69,14,102/- each under SGST and CGST and Rs.16,55,285/- each under SGST and CGST respectively.

3. It is further case of the petitioner that since the 2nd respondent had paid only 12% of tax in respect of works executed by the petitioner, it approached the 2nd respondent for payment of differential rate of tax @ 6% so as to pay the same to the 1st respondent. After series of communications between the petitioner and the 2nd respondent, it refused to reimburse the differential rate of tax on the ground that, for the works executed by the petitioner the applicable rate of tax @ 12% and not 18%.

4. As the 2nd respondent denied to pay the differential rate of tax, the petitioner initially prayed to direct the 2nd respondent to pay an amount of Rs.1,65,52,848/- each under SGST and CGST along with interest and penalty levied under Assessment Order dt.14.08.2025 passed by the 1st respondent, so as to enable the petitioner to pass on the same to the 1st respondent. Pending the writ petition the petitioner filed I.A.No.2 of 2025 seeking to amend the prayer in the following manner.

To issue writ of mandamus or any other appropriate writ or order or direction setting aside the adjudication order dated 14.08.2025 passed by the 1st respondent under Section 73 of the GST Act for the years 2021-22 and 2022-23 levying higher rate of tax of 18% on the infrastructure/road works executed by the petitioner as being contrary to the facts on record and the Judgment of this Honble Court in SJ Constructions Vs. The Assistant Commissioner and other [2025(9) TMI 1215] and consequently direct the 1st respondent to re-do the assessment year-wise in light of the clarifications issued by the Industrial Area Local Authority regarding the public nature and the infrastructure works executed under contracts dated 25.02.2019 & 08.03.2019 and pass.

5. Along with the amendment application, the petitioner also filed certificates dt.11.12.2025 issued by the Executive Officer, Industrial Area Local Authority (IALA) IP-Gudipalli, stating that the roads laid by the petitioners for facilitating Industrial Activity and the movement of general public, vehicles and goods in and around the Gudipalli Industrial Area. The said certificate further states that the roads are treated as public roads and maintained for the benefit of all stakeholders including the general public, industries and transport service providers.

6. The application for amendment was allowed by order dated 20.12.2025.

7. During the course of hearing, the counsel for the petitioner would submit that in view of the fact that the certificate dated 11.12.2025 issued by the Executive Officer, IALA, IP-Guidpalli, the roads laid by it fall under Entry-3 of Notification No.24 of 2017, dt.21.09.2017. He would further submit that as per the said entry, the applicable rate of tax is 12% and not 18% as held by the 1st respondent in its impugned order dt.14.08.2025.

8. Having considered the submissions made by the counsel for the petitioner and the learned Government Pleader appearing for Commercial Taxes and Standing Counsel for the 2nd respondent, this Court feels that the petitioner has made out a case for consideration based on the certificate issued by the Executive Officer, IALA, so as to decide the rate of tax in respective of works executed by it to be decided by the 1st respondent afresh.

9. Accordingly, the impugned order dt.14.08.2025 passed by the 1st respondent is set aside only to the extent of levying tax @ 18% for the works executed by the petitioner in relation to laying of roads. The 1st respondent is further directed to redo the assessment by taking into consideration of the certificate dated 11.12.2025 issued by the Executive Officer, IALA, IP-Gudipalli.

10. It is further made clear that the Assessment Order in respect of levying tax on other components do not require interference of this Court. Needless to mention the 1st respondent is directed to pass separate orders in relation to each financial year.

11. Accordingly, the writ petition is disposed to the extent indicated as above.

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