



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 2640 OF 2026 (T-RES)

BETWEEN:

M/S. SWASTIK METALS
PLOT NO.37, KIADB INDUSTRIAL AREA,
2ND STAGE, 2ND CROSS
MALUR TALUK, KOLAR DISTRICT
KARNATAKA - 563 130
REP BY ITS PROPRIETOR
SRI VIKASH KUMAR SHARMA
S/O SITARAM SHARMA
NO.208, 1ST MAIN ROAD, 6TH CROSS
NISARGA LAYOUT SECTOR ZONE 1
BANNERGHATTA POST
ANEKAL TALUK
BANGALURU - 560 105

...PETITIONER

(BY SRI. GOWRISHANKAR PRASAD H.R., ADVOCATE)

AND:

1. THE COMMISSIONER OF COMMERCIAL TAXES
VANIYA TERIGE KARYALAYA,
GANDHINAGAR,
BENGALURU - 560 009
2. THE COMMERCIAL TAX OFFICER
(VIGILANCE)-43, 3RD FLOOR, VTK-2,
RAJENDRANAGAR,



KORAMANGALA,
BENGALURU - 560 047.

3. JOINT COMMISSIONER OF COMMERCIAL TAXES
(APPEALS)-04,
6TH FLOOR, TTMC BUILDING,
BMTc DEPOT, 80 FEET ROAD,
KORAMANGALA,
BENGALURU

...RESPONDENTS

(BY SRI. K. HEMAKUMAR, AGA)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO - QUASH THE IMPUGNED ORDER BEARING NO.JCCT(VIG)/CTO/VIG/43/ASSGN-1023/2022-23, CONSEQUENTIAL SUMMARY OF THE ORDER IN FORM GST DRC-07 BEARING REFERENCE NO. ZD2904240596236, BOTH DTD. 23-04-2024 (ANNEXURES - C, AND D), PASSED BY THE COMMERCIAL TAX OFFICER (VIGILANCE)-43, BENGALURU, THE FIRST RESPONDENT FOR THE FINANCIAL YEAR 2018-19, CONSEQUENTLY ORDER NO. ZD290126065106G DATED 03-01-2026 SIGNED ON 12-01-2026 PASSED IN APPEAL BEARING NO. GST.AP.664/2025-26 PASSED BY THE JOINT COMMISSIONER OF COMMERCIAL TAXES, APPEALS -4, BENGALURU, THE 3RD RESPONDENT (ANNEXURE -G)

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S SUNIL DUTT YADAV



ORAL ORDER

1. The petitioner has called in question correctness of the order at Annexure-C and summary of the order at Annexure-D. The petitioner has also called in question correctness of the order at Annexure-G by the Appellate Authority.
2. The Appellate Authority has rejected the appeal on the sole ground that the appeal filed was beyond the statutory time prescribed and accordingly, there has been no adjudication on merits of the appeal.
3. The petitioner would contend that the order of adjudication at Annexure-C under Section 73(9) of KGST Act is an *exparte* order. The petitioner submits that he was not in a position to make reply to the show cause notice and the notice is though sent, has not been served on the petitioner as the petitioner had already closed the office as well as business. The petitioner also submits that an opportunity may be granted to participate in the



proceedings and take their stand on merits as regards the show cause notice and explain the mis-match of ITC.

4. Perused the order at Annexure-G. The appeal has been dismissed on the sole ground of appeal having been filed belatedly. Taking note that the order of adjudication is also an *ex parte* order, it would be appropriate to afford an opportunity to the petitioner to participate in adjudication proceedings. This would be an appropriate approach as the petitioner submits that he has material to explain mis-match of ITC.

5. Taking note of the consequences that would visit the petitioner if the order is allowed to stay and noticing that the order of adjudication is also an *ex parte* order, orders of adjudication at Annexures- C and D are set-aside. As the order passed in appeal is without adjudication, the correctness of the order of adjudication itself can be looked into. The matter is remitted back to the stage of reply to the show cause notice. The petitioner to appear



before respondent No.2 without further notice, on
25.02.2026. Accordingly, petition is ***disposed of.***

6. All contentions are kept open.

7. In view of disposal of the petition, I.A.No.1/2026
does not survive for consideration. Accordingly, the same
is *disposed of.*

SD/-
(S SUNIL DUTT YADAV)
JUDGE

GH
List No.: 2 Sl No.: 36