



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. 2614 OF 2026 (T-RES)

BETWEEN:

M/S KHUSHBOO ENTERPRISES
A PROPRIETORSHIP CONCERN
REGISTERED UNDER THE KVAT ACT, 2003
NO.157/2, NEAR NAAZ COMPLEX
SLAUGHTER HOUSE ROAD
BENGALURU-560 002
(REPRESENTED BY ITS
PROP: MUKTHAR PASHA
AGED ABOUT 53 YEARS)

...PETITIONER

(BY SRI. K. M. SHIVAYOGISWAMY., ADVOCATE)

AND:

1. DEPUTY COMMISSIONER
OF COMMERCIAL TAXES (AUDIT)-3.1
VAT DIVISION-3, ROOM NO.216
TTMC, 2ND FLOOR BMTC
SHANTHINAGAR, BENGALURU-560027.
2. JOINT COMMISSIONER OF
COMMERCIAL TAXES (APPEALS)-3
TTMC, SHANTHINAGAR
BENGALURU-560 027.

...RESPONDENTS

(BY SRI. HEMAKUMAR, AGA)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO QUASH THE
IMPUGNED EX-PARTE ORDER BEARING CAS NO.289002881
AND DEMAND NO.104464203 DATED 10.03.2017 PASSED



UNDER SECTION 39(1) OF THE KVAT ACT, BY 1ST RESPONDENT-DEPUTY COMMISSIONER OF COMMERCIAL TAXES (AUDIT)-3.1, DVO-3 ANNEXURE- C, IN RELATION TO THE FINANCIAL YEAR 2010-11 AND ETC.,

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

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

ORAL ORDER

Petitioner has called in question the correctness of the order at Annexure-C passed under Section 39(1), 36, 37 and 72(2) of the KVAT Act, which is an order of reassessment. Petitioner has also called in question the order of the Appellate Authority at Annexure-D.

2. It is the case of the petitioner that he had in his possession only Photostat copies of records as the originals were seized in connection with the proceedings in C.C.No.2686/2015 and such Photostat copies of the records were not taken note of by the authority while passing the order of reassessment. Petitioner submits that the authority has recorded a finding in the impugned order that the petitioner has failed to produce books of accounts.



It is further submitted that in light of the proceedings before the Criminal Court, petitioner was not in possession of the original records and accordingly, now that the petitioner is in possession of the original records by virtue of the closure of proceedings in C.C.No.2686/2015, the order of reassessment may be set aside.

3. It is further submitted that the appellate authority also refused to take note of the unauthenticated documents submitted by the petitioner and proceeded to dismiss the appeal. Accordingly, petitioner submits that both the orders may be set aside and the matter be remitted to the stage of reply to the show cause notice.

4. Perused the order at Annexure-C. The order at Annexure-C records a finding that the reassessment order is required to be passed by rejecting the input tax claimed as the petitioner had failed to produce books of accounts. However, the order does make a reference to proceedings pending before the Court. In effect, the order at Annexure-C is an order which is passed without verifying



the records which the petitioner has now in possession. Petitioner has placed before this Court the original documents and has taken back the same. It is submitted that the petitioner is in a position to substantiate the Photostat copies of documents that were true copies of the originals. Accordingly, it is submitted that the Photostat copies that were produced ought to have been relied upon.

5. Perused the order at Annexure-D. It is clear that the order is passed on the ground that authenticated documents have not been produced. It is also forthcoming from the order that proceedings before the police authorities have been referred to. It is noticed that C.C.No.2686/2015 has ended in an order of acquittal. The petitioner is now in possession of the original documents as was placed before this Court and withdrawn later. In light of the petitioner being in possession of the original documents, reference to photostat copies of the document having been made by the Appellate Authority, it would be appropriate to remit the matter back to the stage of show



cause notice by setting aside the reassessment order itself.

6. It is a matter of record that photostat copies of the documents were submitted in the proceedings as referred to in the order at Annexure-D which have however not been believed as being unauthenticated documents.

7. Taking note that the order of reassessment itself was an order of which could be described to be an ex-parte order, it would be appropriate to set aside the order in appeal also. Accordingly the orders at Annexures-C and D are set aside. The matter is remitted to the stage of reply to the show cause notice.

8. Petitioner to present himself before the 1st respondent without further notice on 23.02.2026. All contentions are kept open. Needless to state, if the petitioner does not avail of the opportunity, the indulgence granted by this Court would stand revoked.



9. Accordingly, the petition is ***disposed of***.

Sd/-
(S SUNIL DUTT YADAV)
JUDGE

VP