



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 3545 OF 2026 (T-RES)

BETWEEN:

1. SHRI. RAVIKUMAR. B. T.
AGED ABOUT 55 YEARS,
WORK CONTRACTOR PROPRIETOR
GSTIN 29AEJPT4791E1ZX
PAN AEJPT4791E,
NO. 180, 3RD MAIN ROAD,
HVR LAYOUT,
BENGALURU - 560 079

... PETITIONER

(BY SRI. HARISH VASHISTH., ADVOCATE)

AND:

1. UNION OF INDIA
THROUGH ITS SECRETARY
MINISTRY OF FINANCE,
NORTH BLOCK,
NEW DELHI - 110 001.
2. GOVERNMENT OF KARNATAKA,
DEPARTMENT OF FINANCE
THROUGH COMMISSIONER OF
COMMERCIAL TAXES DEPT.,
VANIJYA THERIGE KARYALAYA-1
BENGALURU - 560 009



3. ASSISTANT COMMISSIONER OF CENTRAL TAX,
WEST DIVISION-3,
BENGALURU WEST COMMISSIONERATE,
TTMC COMPLEX, BANASHANKARI,
BENGALURU - 560 070
4. ASSISTANT COMMISSIONER,
CIRCLE V
I FLOOR, JSS TOWER,
BANASHANKARI-3 STAGE,
BENGALURU-560 085

... RESPONDENTS

(BY SRI. MADANAN PILLAI, CGC FOR R1;
SMT. JYOTI M. MARADI, HCGP FOR R2;
SRI ARAVIND V. CHAVAN, ADVOCATE FOR R3 AND R4)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO (I) QUASH THE ORDER-IN-ORIGINAL NO. 196/2024-25 GST, DATED 05.02.2025, DIN-20250257YU0000444C38, OF THE ASSISTANT COMMISSIONER OF RESPONDENT-3, OF DEMAND AND RECOVERY UNDER SECTION 74(1), OF THE CENTRAL GOODS AND SERVICES ACT, 2017 (HEREINAFTER CGST ACT, 2017), HEREWITH PRODUCED AT ANNEXURE-A 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

Sri Aravind V. Chavan, learned counsel is directed to
accept notice for respondent Nos.3 and 4.



The petitioner has sought for issuance of writ of certiorari to set aside the Order-in-Original at Annexure-'A' dated 05.02.2025. The petitioner has also sought to set aside the show-cause notice at Annexure-'B' dated 23.05.2023 and has sought for further relief of issuance of writ of mandamus to adjudicate the proceedings under Section 73 instead of Section 74 of the CGST Act, 2017.

2. The petitioner admittedly had suffered an order of adjudication at Annexure-'A'. The said order also imposes penalty. It is further made out from the facts that the petitioner has paid the tax component in terms of the order impugned, which is the order of adjudication.

3. It is further case of the petitioner that the petitioner was of a *bona fide* impression that the benefit under Section 128A of the CGST Act, 2017 could have been claimed and accordingly, did not take steps to challenge the order insofar as the interest and penalty is concerned.



4. The petitioner also submits that at this point of time, since the appeal, even if it is filed would be time-barred and the petitioner has no other remedy except to knock the doors of this Court.

5. Sri Aravind V. Chavan, learned counsel appearing for respondent Nos.3 and 4 submits that an order which ought to have been challenged in appeal cannot be reopened by way of Writ Petition and if writ is to be entertained, the grounds for bypassing the statutory remedy have not been made out in the present case.

6. It is noticed that the explanation of the petitioner for not having availed of the statutory appellate remedy is that the petitioner was under a *bona fide* belief that the benefit under Section 128A of the CGST Act, 2017 was applicable. It is an admitted position that the benefit under Section 128A is admissible only with respect to the proceedings under Section 73 and the petitioner may not be eligible for such benefit.



7. Taking note of the assertion of petitioner regarding his impression of benefit under Section 128A of CGST Act, 2017, it would be appropriate to relegate the petitioner to challenge the Order-in-Original before the Appellate Authority and raise all the contentions. The *bona fide* belief of the petitioner regarding availability of Section 128A of CGST Act, 2017 would in the peculiar circumstance of the case be taken note of so as to direct the Appellate Authority to take up the appeal, while waiving the delay.

8. Accordingly, if the petitioner were to file an appeal against the Order-in-Original within a period of four weeks from the date of receipt of certified copy of the order, the same to be taken on record by the Appellate Authority without raising any objection on appeal. All contentions are kept open.

9. In light of the contention that account of the petitioner has been frozen, the petitioner submits that he



would pay the amount equivalent to pre-deposit, if he were to file an appeal.

10. In light of said submission, upon such amount being remitted by the petitioner before the respondent Authority, the instruction for freezing the account would be withdrawn immediately thereafter. However, it is made clear that, in the event, for any reason the Bank recovers entirety of penalty, the petitioner herein has undertaken to challenge the same by way of appeal. Upon appeal being filed, the petitioner is entitled for refund of amount apart from the pre-deposit.

Subject to the above observations and directions, the petition is ***disposed of.***

**Sd/-
(S SUNIL DUTT YADAV)
JUDGE**

VGR