



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 4692 OF 2026 (T-RES)

BETWEEN:

1. SRI V. S. PARAMESH,
AGED 54 YEARS,
SON OF SANNABOOTH BHOVI,
NO.1, VADDARAHATTI,
ANNEGERE POST,
PANCHANAHALLI,
KADUR TALUK,
CHICKMAGALUR DIST - 577 548.

...PETITIONER

(BY SRI. NAVEEN G.S, ADVOCATE)

AND:

1. JOINT COMMISSIONER OF
COMMERCIAL TAXES (APPEALS),
MALNAD DIVISION,
VANIJYA TERIGE BHAVANA,
12TH CROSS, A BLOCK,
GOPALAGOWDA EXTENSION,
SHIVAMOGGA - 577 205.
2. ASSISTANT COMMISSIONER OF
COMMERCIAL TAXES (AUDIT-1)
VANIJYA TERIGE BHAVANA,



12TH CROSS, A BLOCK,
GOPALAGOWDA EXTENSION,
SHIVAMOGGA - 577 205.

...RESPONDENTS

(BY SRI. K. HEMA KUMAR, AGA)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO 1. ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION QUASHING THE IMPUGNED ORDER DATED 16.07.2025 PASSED BY RESPONDENT-1, UNDER SECTION 107 OF THE CGST/KGST ACT, 2017, FOR THE TAX PERIOD 2017-18, AND PRODUCED AS ANNEXURE-H, BEARING NO.APPEAL NO.GST/AP-410/2024-25 AS BEING ARBITRARY, ILLEGAL, VIOLATIVE OF THE PRINCIPLES OF NATURAL JUSTICE AND CONTRARY TO LAW AND ETC.,

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

The petitioner has sought for setting aside of the order at Annexure-H passed by the Appellate Authority under Section 107 of the CGST/KGST Act, 2017 for the tax period 2017-18. The petitioner has also sought for setting aside the order of adjudication at Annexure-C.

2. It is noticed at the outset that the order of adjudication was passed on 29.12.2023. A perusal of the said order would indicate that, though the petitioner has made out a reply, however, the authority has adjudicated the proceedings after noticing that the petitioner has not appeared on the subsequent dates nor replied to the show cause notice.

3. The petitioner then filed an application seeking rectification on 15.03.2024 at Annexure-D, which is rejected by way of an order dated 23.04.2024. Thereafter, the petitioner has filed an appeal, which came to be



disposed of in terms of the order at Annexure-H on the sole ground that the appeal was filed beyond the period prescribed. Accordingly, without entering into the merits of the matter and while observing that the delay could not be condoned, the appeal was rejected.

4. Learned counsel for the petitioner submits that the time for filing the appeal is to be calculated from the date of the endorsement/order rejecting the rectification application i.e. 23.04.2024 and if so calculated, the appeal filed could be stated to have been filed within time. Such aspect is not controverted by the respondents.

5. Learned Additional Government Advocate, however, submits that the period for filing the appeal would be calculated from the date of the order-in-original and not from the date of the endorsement/order rejecting the rectification application. It is further submitted that the petitioner has also failed to challenge the order rejecting the rectification request.



6. The order-in-original was passed on 29.12.2023. Admittedly, in terms of Section 107 of the CGST/KGST Act, the petitioner ought to have filed the appeal within an outer limit of four months, being three months extendable by a further period of one month. However, it must be noticed that the petitioner had filed an application for rectification, which came to be rejected as per the order/endorsement dated 23.04.2024.

7. Learned counsel for the petitioner submits that the substantive remedy which would be appropriate would be remedy of appeal and that, under a bona fide wrong advice, the petitioner prosecuted the rectification proceedings. Such explanation could be accepted and the time spent in pursuing the rectification application could be taken note of as time spent under a bona fide belief before a wrong forum.

8. Consequently, noticing that the appeal was filed on 18.07.2024, which is within a period of four months



from the date of the order rejecting the application for rectification, it would meet the ends of justice by directing that the appeal be reheard on its merits.

9. Accordingly, the order at Annexure-H is set aside. The delay in filing the appeal is condoned. The appeal to be taken on record and re-adjudicated, keeping open all contentions.

10. In light of the above, the petition is ***disposed of.***

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

SHS
List No.: 1 Sl No.: 10