



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. 5037 OF 2026 (T-RES)

BETWEEN:

1. M/S. SRI. KENDAGANNESHWARA SWAMY TRADERS
A PARTNERSHIP FIRM
(UNDER REGISTERED PARTNERSHIP ACT 1932),
REPRESENTED HEREIN BY ITS PARTNER,
SMT. RAJESHWARI B, C/O B S UDAY SHETTY,
AGED ABOUT 36 YEARS, RESIDING AT
FLAT NO. 79/A, INDUSTRIAL AREA,
KELAGOTE, CHITRADURGA - 577 501.
2. M/S SKS TRANSPORT,
A PROPRIETARY CONCERN,
REPRESENTED HEREIN BY ITS SOLE PROPRIETOR,
MR. BASAVAPATNA SHRIKANTA UDAY SHETTY
HAVING OFFICE AT GROUND FLOOR, ROOM NO.2,
B B COMPLEX, TRUCK TERMINAL, N.H. 4,
BANGALORE ROAD, CHITRADURGA,
KARNATAKA - 577 501.

...PETITIONERS

(BY SRI. SANDEEP HUILGOL, ADVOCATE)

AND:

1. COMMERCIAL TAX OFFICER
(ENFORCEMENT) - 06, VIJAYAPURA
AFZALPUR TAKKE, VIJAYAPURA - 586 102.



2. ADDITIONAL COMMISSIONER OF
COMMERCIAL TAXES (SMR) - 3,
BANGALORE VTK-1, 8TH FLOOR,
GANDHINAGAR, BENGALURU - 560 009.
3. JOINT COMMISSIONER OF
COMMERCIAL TAXES (APPEALS),
DAVANGERE DIVISION,
DAVANGERE VANIJYA THERIGE BHAVANA,
OPPOSITE BSNL OFFICE,
DEVRAJ URS LAYOUT,
DAVANAGERE - 577 006.

...RESPONDENTS

(BY SRI. K. HEMAKUMAR, AGA)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO (1) QUASHING THE IMPUGNED ENDORSEMENT DATED 19.12.2025 BEARING NO. CTO (ENF)-6/VJP/VIG-12/2024-25/B-294 ISSUED BY THE 1ST RESPONDENT IN THE CASE OF THE 1ST PETITIONER (ANNEXURE -A) 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 petitioners have called in question the validity of the endorsements at Annexures-A and A1. In terms of the endorsement at Annexure-A, the petitioners' request seeking cancellation of the Bank Guarantee furnished in compliance with the directions of the Hon'ble High Court of Karnataka, Kalaburagi Bench vide order dated 24.07.2024 was considered by the authority and rejected, while observing that the Bank Guarantee was to be kept alive till the disposal of the appeal by the Appellate Tribunal.

2. The brief facts are that proceedings were initiated under Section 129 of the Karnataka Goods and Services Tax Act, 2017 / Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "the Act") by respondent No.1 who passed an order on 13.06.2024. Simultaneously, proceedings under Section 130 of the Act were also initiated. During the pendency of such proceedings, when an order under Section 130 came to be passed, the petitioners filed W.P.No.201814/2024 and has



sought for release of the goods and conveyance, which came to be allowed, imposing the condition that the petitioner was required to furnish sufficient security to the satisfaction of the authority to cover the value of the goods and penalty. Thereafter, it is submitted that the Bank Guarantee was taken out by the petitioner securing the value of the goods and conveyance.

3. The petitioners thereafter filed an appeal against the orders passed under Section 130 of the Act before the First Appellate Authority, which authority, by its orders dated 30.06.2025 and 02.07.2025, whereby orders of confiscation were set aside and the impugned order was modified by limiting it to the demand of tax.

4. Respondent No.2 thereafter initiated revisionary proceedings wherein the orders of the First Appellate Authority dated 30.06.2025 and 02.07.2025 were stayed.

5. Learned counsel for the petitioners would submit that the insistence of continuance of Bank



Guarantee causes undue hardship to the petitioners. In light of the petitioners having succeeded before the First Appellate Authority and as the provision of deposit before the First Appellate Authority in terms of the appeal provision having been adhered to, the authority may not insist on continuance of Bank Guarantee.

6. It is noticed that the endorsement at Annexures-A and A1 would reveal that the authority has taken a stand that, as the proceedings have not attained finality and revisionary proceedings under Section 108 of the Act have been initiated and concluded, there would be a requirement for continuance of the Bank Guarantee.

7. It is not in dispute that the execution of the Bank Guarantee was insofar as securing the value of the goods and conveyance in order to obtain its release.

8. The petitioners admittedly succeeded in the first appellate proceedings wherein the order of confiscation has been set aside. If that were to be so, at one stage the



petitioners have an order in their favour. No doubt, the revisionary proceedings has resulted in setting aside of the orders passed in the first appeal. However, such revisionary proceedings has been challenged before the Tribunal and is pending consideration.

9. The only question that arises as to whether the Bank Guarantee requires to be kept alive.

10. The purpose of furnishing of Bank Guarantee is only to ensure that, if an order of confiscation is finally upheld, the revenue must be secured of its interest. As in some cases, the assessees often abandon the proceedings and the revenue has no recourse for recovery, as the whereabouts of the assessee are often not available and there are no assets that could be the subject matter of recovery. Such concern of the revenue is well taken. However, discretion requires to be exercised where the assessee is regular and has been consistent in compliance of the obligations.



11. Perused the affidavit filed by petitioner No.1, who is the trader, dated 03.03.2026.

- "2. *I state that the 1st petitioner firm was registered under the Goods and Services Tax Act with effect from 01.07.2017. Since the issuance of the Registration Certificate, the 1st petitioner firm has been a complaint taxpayer, including by filing returns in a timely manner, and has bonafidely discharge its obligations under the GST laws, including by duly discharging its liability to tax under the GST laws in accordance with law.*
3. *I further state that, in proof of the above submission that the 1st petitioner firm has regularly filed its returns, copies of GSTR-9 (Annual Returns) filed for each financial year from 2017-18 up to 2024-25 are produced herewith as Document Nos.1 to 9. For the current financial year, a copy of the GSTR-3B return filed by the firm is also produced as Document Nos.10.*
4. *I state that the 1st petitioner firm is engaged in the business of trading of arecanut since its inception. I further submit that, except for the present proceedings that are the subject matter of this writ petitioner, there have been no instances of detention, seizure, or confiscation initiated against the 1st petitioner firm under the KGST Act.*
5. *In the above circumstances, I respectfully submit that the 1st Petitioner firm has demonstrated consistent compliance, its bona fides and that it is a genuine and honest taxpayer."*



12. Learned Additional Government Advocate submits that the averments in paragraph No.4 cannot be controverted and though there is a proceeding under Section 129 of the Act was initiated before the authorities at Allahabad, there are no other proceedings pending.

13. Also perused the statement filed along with the memo by the petitioner No.1 demonstrating the discharge of tax liabilities between the years 2017-18 to 2024-25. The record would indicate the total tax that has been paid during the said period amounts to in excess of Rs.102 crores.

14. Under the peculiar facts of the case, the interest of the revenue could be taken to be secured by the track record of a bona fide tax payer. The records would reveal that the petitioner, prima facie, would qualify to be a bona fide tax payer. If that were to be so, the record of compliance of the petitioner would itself be security for adherence to orders to be passed. Accordingly,



in the peculiar facts of the case, the endorsement at Annexures-A and A1 are set aside while keeping all other contentions open, which are pending consideration.

15. The petitioners submit that they would abide by final orders to be passed. Accordingly, the petition is ***disposed of***. The Bank Guarantees are to be returned with due dispatch.

16. Needless to state that the order has been passed taking note of the previous compliance and track record of the petitioners and hence, cannot be taken to be a precedent in other matters.

Sd/-
(S SUNIL DUTT YADAV)
JUDGE

SHS
List No.: 1 Sl No.: 13