



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 6373 OF 2026 (T-RES)

BETWEEN:

1. M/S NIRMITI KENDRA
A STATE GOVERNMENT UNDERTAKING,
SY. NO.507, NAGAMANGALA ROAD,
CHIKKA MANDYAKERE, MANDYA,
REPRESENTED BY ITS PROJECT MANAGER,
SRI JAYAPRAKASH B.

... PETITIONER

(BY SRI. THIRUMALESH M., ADVOCATE)

AND:

1. THE REGISTRAR
KARNATAKA APPELLATE TRIBUNAL,
MULTI STORIED BUILDING,
DR. B. R. AMBEDKAR VEEDHI,
BENGALURU - 560 001.
2. ASSISTANT COMMISSIONER OF
COMMERCIAL TAXES (AUDIT)-1
LAXMI COMPLEX, 100 FEET ROAD,
MYSURU DIVISION, MYSURU
3. JOINT COMMISSIONER OF
COMMERCIAL TAXES (APPEALS),



COMMERCIAL TAXES BUILDING,
DIWANS ROAD,
MYSORE - 560 027.

... RESPONDENTS

(BY SRI. K. HEMAKUMAR, AGA)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASHING THE ORDER DATED 25-04-2025 PASSED BY THE KARNATAKA APPELLATE TRIBUNAL, IN STA NO. 19 OF 2021 FOR THE TAX PERIODS IN THE YEAR 2010-11 ANNEXURE D 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

Petitioner has called in question the validity of the order dated 25.04.2025 passed by the Karnataka Appellate Tribunal, whereby the Tribunal noticing that the appeal was of the year 2021 had dismissed the appeal noticing that the petitioner had failed to prosecute the case from 19.02.2025 for about 6 hearing dates.

2. It is to be noticed that insofar as the same appeal i.e., STA No.19/2021, on a previous occasion as well on 11.12.2023, the appeal came to be dismissed for non-prosecution. Thus, it becomes clear that the order



dated 25.04.2025 is the order dismissing the appeal for the second time upon restoration.

3. Learned counsel for the petitioner submits that the counsel on record had not prosecuted the proceedings diligently and due to some lapse on the part of the counsel, the petitioner ought not to suffer. It is further submitted that though a 2nd miscellaneous application has been filed, by virtue of the amendment made to Regulation 28 of the Karnataka Appellate Tribunal Regulation, 1979 (for short 'KAT Regulation'), there is a bar for restoration on the second occasion. Accordingly, it is submitted that ignoring the 2nd miscellaneous application filed, this Court may take a lenient view of the matter and restore the appeal.

4. The facts referred to above detail the lapse on the part of the petitioner in diligently prosecuting the proceedings. However, it is to be noticed that the 2nd miscellaneous application stated to have been filed would



meet the fate of dismissal in light of the amendment to Regulation 28 of the KAT Regulation. Admittedly, the appeal was dismissed on an earlier occasion and subsequently restored. If that were to be so, the second order of dismissal cannot be set aside by the Tribunal by virtue of the amendment to Regulation 28 of the KAT Regulation.

5. No doubt the petitioner has not prosecuted the proceedings with due diligence. However, in light of the undertaking that the petitioner if given another opportunity would prosecute the proceedings and not seek for any adjournments on the date fixed for hearing, the petition may be disposed of putting the petitioner on terms.

6. Taking note of the prejudice that may be caused to the petitioner if the appeal is not permitted to be heard on merits and putting the petitioner on terms, the order dated 25.04.2025 at Annexure-'D' is set aside.



The matter is remitted for fresh consideration. The appeal would now stand restored and to be heard by the Karnataka Appellate Tribunal. Needless to state, petitioner is to withdraw the miscellaneous petition pending before the Tribunal filed against the order of 25.04.2025.

7. Petitioner to pay costs of Rs.15,000/- to the Karnataka Advocate Clerks Benevolent Trust, High Court Building, Bangalore.

8. Petitioner to mark his presence without further notice before the Karnataka Appellate Tribunal on 11.05.2026.

9. Petition is ***disposed of*** in terms of the above.

SD/-
(S SUNIL DUTT YADAV)
JUDGE

VP