



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO.10787 OF 2026 (T-RES)

BETWEEN:

M/S. SRIKANRESHWARA TRADERS,
NO.1798, GROUND AND FIRST FLOOR,
ACES A BLOCK BDA LAYOUT, SINGASANDRA,
BENGALURU-560068.

REP. BY SOUMYA K.R, PROPRIETOR.

...PETITIONER

(BY SRI M.R. SHIVAREDDY, ADVOCATE)

AND:

1. THE ASSISTANT COMMISSIONER OF
COMMERCIAL TAXES LGSTO-16,
6TH FLOOR V.T.K.-2, TTMC BUILDING,
RAJENDRA NAGAR, KORAMANGALA,
BENGALURU-560 095.
2. THE JOINT COMMISSIONER OF
COMMERCIAL TAXES (APPEALS-4),
NO.640, 6TH FLOOR, BMTC BUILDING,
80 FEET ROAD, 6TH BLOCK, KORAMANGALA,
BENGALURU-560 095.

...RESPONDENTS

(BY SRI K. HEMA KUMAR, AGA)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO A) ISSUE A WRIT

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Location: HIGH
COURT OF
KARNATAKA



OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER DIRECTION QUASHING THE ORDER DATED 09.08.2024 (ANNEXURE-B) PASSED BY RESPONDENT NO.1 UNDER SECTION 73 OF THE CGST/KGST ACT, 2017, WHEREBY THE INPUT TAX CREDIT HAS BEEN DISALLOWED AND DEMAND OF TAX, INTEREST AND PENALTY HAS BEEN RAISED FOR THE FINANCIAL YEAR 2022-23 BEARING NO. ACCT (P)/L GSTO-016/DRC-7/2024-25 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

The petitioner has sought for setting aside of the Order of Adjudication dated 09.08.2024.

2. It is the case of the petitioner that it has suffered an exparte order and had failed to make out reply to the show cause notice due to bonafide reasons. It is further submitted that the auditor did not communicate to the petitioner regarding the notices that were sent, which was in the knowledge of the auditor. It is submitted that the premise on which the authority has adjudicated the issue is as regards wrongful claim of ITC. It is submitted that the observation made that the supplier was non-existent is erroneous and the petitioner would demonstrate the same by producing necessary



records. Accordingly, it is submitted that the impugned order may be set aside and matter remitted for re-consideration. It is further submitted that the petitioner would make out reply to the show cause notice on its merits and meet the grounds raised and produce necessary documents to substantiate that the availment of ITC was in order.

3. Sri K. Hema Kumar, learned Additional Government Advocate submits that the petitioner had not responded to the show cause notice and the authority was constrained to pass orders on the basis of material available. It is submitted that the appeal filed by the petitioner was also rejected on the ground of delay.

4. Perused the Order of Adjudication. It is noticed that the premise on which the adjudication has been finalized is as regards wrongful claim of ITC. The authority has observed regarding supplier being non-existent.

5. The aspect of wrongful availment of ITC being densely factual is an aspect that requires to be adjudicated after affording an opportunity to the petitioner. In light of the



assertion of the petitioner that it would demonstrate that the supply was genuine and has documents including bank statements to demonstrate actual transaction and payment, it would be appropriate to afford an opportunity to the petitioner to make out its reply to the show cause notice by remitting the matter back for re-consideration to the adjudicating authority.

6. Noticing that the appeal was filed belatedly and has been rejected solely on the ground of delay as there is no merger of the order-in-original, this Court could enter into the correctness of the order-in-original.

7. Taking note of the above observations and also stand of the petitioner that it would meet the ground made out in the show cause notice, it would be appropriate to set aside the order-in-original at Annexure-B and remit the matter back for re-consideration. It is also to be noticed that the learned counsel for the petitioner submits that necessary debit has been made in electronic credit ledger as regards demand of tax. Such aspect is also taken note of apart from the submission that 10% of demand of tax has already been made



good before the First Appellate Authority. All contentions are kept open.

8. In light of setting aside of the order-in-original and remitting the matter back, the respondent authorities to rescind instructions given to the bank pursuant to the steps for recovery, forthwith.

9. The petitioner to appear before respondent No.2 without further notice on 25.05.2026.

Sd/-
(S SUNIL DUTT YADAV)
JUDGE

MD
List No.: 1 Sl No.: 2