

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

SALES TAX REVISION PETITION NO.18 OF 2021

BETWEEN:

YES BANK LIMITED,
GROUND FLOOR,
PRESTIGE OBELISK,
MUNICIPAL NO.3, KASTURBA ROAD,
BANGALORE - 560 001.

REPRESENTED BY MANISH KARDILE

HEAD -REGULATORY REPORTING
AND TAXATION,
AGED ABOUT 52 YEARS
PLOT NO.1202, B WING,
NEW VINAY CHS,
MANIPADA VIDYANAGARI ROAD
KALINA, SANTACRUZ EAST,
MUMBAI- 400 098.

...PETITIONER

(BY SRI. B.G. CHIDANANDA URS.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
FINANCE DEPARTMENT
VIDHANA SOUDHA
BENGALURU - 560 001
REPRESENTED BY ITS SECRETARY.
2. JOINT COMMISSIONER OF
COMMERCIAL TAXES
(APPELAS)-I, SHANTINAGAR
BANGALORE - 560 027.

3. ASSISTANT COMMISSIONER OF
COMMERCIAL TAXES
AUDIT (1.7) DGSTO-01,
3RD FLOOR, BMTC BUILDING
YESHWANTHPUR,
BANGALORE- 560 022.

...RESPONDENTS

(BY SMT.JYOTHI M MARADI, HCGP)

THIS STRP IS FILED UNDER SEC.65(1) OF THE KARNATAKA VALUE ADDED TAX ACT,2003, AGAINST THE JUDGMENT DATED 29.06.2020 IN STA NOS.96/2019 ON THE FILE OF THE KARNATAKA APPELLANT TRIBUNAL AT BANGALORE, DISMISSING THE APPEAL AND FILED AGAINST THE ORDER DATED 31.12.2018 PASSED IN VAT. AP. NO.120/17-18 (A.Y.2012-13) ON THE FILE OF THE JOINT COMMISSIONER OF COMMERCIAL TAXES (APPEALS-1) BANGALORE, DISMISSING THE APPEAL AND UPHOLDING THE RE-ASSESSMENT ORDER DATED 25.10.2017 PASSED UNDER SECTION 39, 36(2) AND 72(2) OF KVAT ACT, 2003 BY THE ASSISTANT COMMISSIONER OF COMMERCIAL TAX OFFICER (AUDIT) - 1.7, DIVISION -1, BANGALORE, AND FOR THE TAX PERIODS FROM APRIL 2012 TO MARCH 2013.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 30.07.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV ORDER

(PER: HON'BLE DR. JUSTICE K.MANMADHA RAO)

This revision petition is filed by the petitioner, calling in question the order dated 29.06.2020 passed by the Karnataka Appellate Tribunal, Bengaluru, in STA No.96/2019, whereby the appeal preferred by the petitioner against the Order-in-Appeal dated 31.12.2018 passed by the Joint Commissioner of Commercial Taxes (Appeals) in CAS Order No.290962738 APP in VAT AP No.120/17-18 (AY 2012-13) was dismissed, as also the rectification order dated 31.03.2021 passed by the Tribunal in ST Review No.05/2020. The petitioner also seeks to assail the reassessment order dated 25.10.2017 bearing No.283246584 passed by the Assistant Commissioner of Commercial Taxes (Audit-1.7), including the consequential levy of tax, penalty and interest.

2. The petitioner/Bank herein is the Dealer/appellant before the authority below and the respondents herein are the respondents before the Tribunal.

3. The brief facts of the case are that:-

The petitioner is a Public Limited Company having its registered office at No.3, Prestige Obelisk, Municipal No.3, Kasturba Road, Bengaluru-560001 and is registered under the provisions of the Karnataka Value Added Tax Act, 2003 (for short, 'the KVAT Act') bearing TIN No.29020670562. The petitioner is a banking company and financial institution and is also engaged in the sale of gold and silver bullion. It is stated that the petitioner is one of the banks authorized by the Reserve Bank of India to import gold and silver bullion from international suppliers on consignment basis, discharge the applicable customs duty and thereafter effect sales to local jewellery manufacturers and bullion traders in India. The petitioner claims to have discharged VAT on such sales at the applicable rate during the tax period 2012-13.

4. Pursuant to Assignment No.102115113 dated 18.02.2015 issued by the Additional Commissioner of Commercial Taxes (Enforcement-I), an inspection was conducted at the business premises of the petitioner on 18.02.2015. On the same day, a notice under Section 74(1) of the KVAT Act was issued calling upon the petitioner to

furnish purchase and sales registers and bills, e-sugam utilisation details, details of tax paid on auction of gold and silver jewellery pledged by customers and details of tax paid on sale of seized vehicles for the years 2012-13, 2013-14 and 2014-15. The Enforcement Authority proposed levy of penalty of Rs.5,000/- on the allegation that the petitioner had failed to furnish the records called for during inspection.

5. The petitioner, by its letter dated 25.02.2015, furnished the purchase and sales registers, copies of purchase and sales invoices for the period from April 2012 to December 2014, details of tax paid on auction of gold and silver jewellery pledged by customers and details of tax paid on sale of seized vehicles. The petitioner explained that the information sought was voluminous and had to be extracted from its accounting system and, therefore, could not be furnished within the short period of two hours made available during inspection. That being a public limited Company, the petitioner maintained its books of account on a real-time accounting system and, therefore, the allegation of non-maintenance of proper books of account was untenable.

6. Thereafter, the Enforcement Authority issued another notice dated 04.03.2015 alleging difference between the purchase value reflected in the books of account and the purchase value disclosed in the VAT returns for the relevant period. The discrepancy, insofar as the present proceedings are concerned, related to the months of October 2012, November 2012 and December 2012. The petitioner submitted its reply dated 11.03.2015 stating that the omission in reporting the purchase turnover in the original VAT-100 returns was inadvertent and clerical. It was explained that the error came to its knowledge only during the VAT audit, by which time the period of six months prescribed for filing a revised return had elapsed. The petitioner further stated that the correct purchase value had been reported in the VAT Audit Report in Form VAT-240 for the year 2012-13 and that a reconciliation of the quantity of bullion purchased and sold during the relevant period had also been furnished.

7. Subsequently, the Assistant Commissioner of Commercial Taxes (Audit-1.7), pursuant to Assignment No.188549502 dated 15.09.2016 issued by the

Commissioner of Commercial Taxes, initiated reassessment proceedings for the period from 01.04.2012 to 31.03.2013. A proposition notice is stated to have been issued on 15.09.2017. The petitioner contends that the said proposition notice was not served upon it. By reassessment order dated 25.10.2017 bearing No.283246584, passed under Sections 39, 36(2) and 72(2) of the KVAT Act, the Assessing Authority confirmed the proposition and enhanced the turnover for October 2012, November 2012 and December 2012 by treating the alleged unreported purchases as corresponding undeclared sales. Tax at 1% was levied on the enhanced turnover together with penalty and interest. The turnover so determined was Rs.6,33,47,526/-, with tax of Rs.6,33,476/-, penalty of Rs.63,348/- and interest of Rs.5,64,451/-, aggregating to Rs.12,61,275/-.

8. Aggrieved by the reassessment order dated 25.10.2017, the petitioner preferred an appeal under Section 62 of the KVAT Act before the Joint Commissioner of Commercial Taxes (Appeals) on 30.11.2017. Personal hearing was granted and the petitioner reiterated its contentions. By Order-in-Appeal dated 31.12.2018, bearing

CAS Order No.290962738, the First Appellate Authority upheld the reassessment order and confirmed the demand of Rs.12,61,275/-.

9. The petitioner thereafter preferred STA No.96/2019 before the Karnataka Appellate Tribunal on 06.03.2019. The petitioner contended, inter alia, that the reassessment order passed under Section 39 of the KVAT Act was not justified in the facts of the case; that the correct purchase figures had already been disclosed in Form VAT-240; that the reconciliation statement had not been properly considered; that there was no material to treat the alleged unreported purchases as suppressed sales turnover; that the reassessment had been completed without proper opportunity; and that the consequential levy of penalty and interest was unsustainable.

10. The Tribunal, dismissing the appeal by order dated 29.06.2020, held that the petitioner had indulged in suppression of purchase turnover for October, November and December 2012 and that the omission could not be regarded as an inadvertent mistake confined to one tax period. It

further observed that an inadvertent mistake involving the turnover referred to by it could not have occurred without a *mala fide* motive and that the petitioner had not taken steps to cure the omission by filing revised returns within the stipulated period. The Tribunal consequently held that the disputed turnover had been rightly estimated and subjected to tax by the Assessing Authority as upheld by the First Appellate Authority and that the method adopted by the First Appellate Authority was just and proper.

11. The petitioner thereafter filed a rectification application on 19.10.2020 pointing out that the Tribunal had erroneously referred to disputed turnover of Rs.22,37,32,687/-, whereas the turnover involved in the present appeal was only Rs.6,33,47,526/-. The petitioner contended that the higher figure had inadvertently been taken from another appeal which was heard simultaneously. By rectification order dated 31.03.2021 in ST Review No.05/2020, the Tribunal accepted that the reference to Rs.22,37,32,687/- was a typographical error and rectified the same by recording that the turnover involved in the present appeal was Rs.6,33,47,526/-. However, the Tribunal

declined to interfere with its findings on the merits and reiterated that the petitioner's contention regarding non-filing of revised returns within the prescribed period could not be accepted.

12. Learned counsel appearing for the petitioner contends that the authorities and the Tribunal proceeded on an erroneous assumption that omission to disclose purchases in the monthly VAT-100 returns necessarily established suppression of sales turnover. It is submitted that the correct purchase figures had already been disclosed in Form VAT-240 filed on 31.12.2013, much before the inspection dated 18.02.2015, and that the books of account, audited financial statements and reconciliation statement established that there was no suppression of sales.

13. It is further contended that Form VAT-240, filed pursuant to Section 31(4) of the KVAT Act read with Rule 34 of the KVAT Rules, was a statutory audited document containing the annual particulars of purchases and sales and ought to have been considered by the Assessing Authority and the Appellate Authorities. According to the petitioner,

the authorities instead proceeded only on the discrepancy in the monthly VAT-100 returns and failed to establish any actual suppression of sales.

14. Learned counsel further contended that its books of account and Form VAT-240 were available much before the reassessment order dated 25.10.2017 and that the Assessing Authority nevertheless relied substantially upon the Enforcement Authority's report and estimated the sales turnover without establishing any nexus between the alleged purchase omission and corresponding suppressed sales. Further, enhancement of turnover by an equal amount, resulting in the disputed turnover being determined at Rs.6,33,47,526/-, is arbitrary and unsupported by any material. The petitioner relies upon the nature of its bullion business and contends that its margins are minimal in wholesale transactions and that there was no basis for assuming a 100% margin or making an equal addition to the alleged suppressed purchases.

15. It is contended that the discrepancy identified by the Enforcement Authority was confined to October,

November and December 2012 and that neither the Enforcement Authority nor the Assessing Authority recorded any suppression for the remaining months of the financial year 2012-13 or for any other period. It is therefore urged that the Tribunal could not have inferred a continuing pattern of suppression merely from the discrepancy relating to three months. The petitioner also challenges the finding of *mala fide* intention. According to the petitioner, the correct figures had been disclosed in Form VAT-240 on 31.12.2013 and the discrepancy was subsequently explained to the Enforcement Authority by letter dated 11.03.2015. It is contended that such disclosure and the maintenance of books and audited records demonstrate bona fides and negate any deliberate or wilful suppression.

16. The petitioner further contends that the failure to file a revised return within six months cannot, by itself, establish suppression of turnover. Reliance is placed on Section 35 of the KVAT Act, Rule 39 of the KVAT Rules and the circular dated 07.07.2008 issued by the Commissioner of Commercial Taxes. It is urged that the machinery provisions relating to correction of returns ought to have been

considered and that the departmental circular directed acceptance of a revised return filed beyond six months where such return disclosed additional tax liability.

17. The petitioner has also relied upon various decisions concerning best judgment assessment, estimation of escaped turnover, equal addition, suppression, *mens rea*, penalty and interpretation of judicial precedents. The substance of the reliance is that an assessment based on best judgment cannot be arbitrary or founded upon mere conjecture; that an estimate must have a reasonable nexus with the material available on record; that mere incorrectness or inadvertence in a return does not necessarily establish wilful suppression; and that penalty cannot follow automatically in the absence of deliberate or contumacious conduct.

18. It is contended that the Tribunal failed to consider the books of account, Form VAT-240, reconciliation statement and other documents relied upon by it and mechanically affirmed the orders of the authorities below. It is further contended that the Tribunal failed to properly

appreciate the distinction between an omission in reporting purchase turnover and actual suppression of sales turnover and, consequently, erred in sustaining the reassessment, equal addition, penalty and interest.

19. In support his contentions, learned counsel has raised substantial questions of law for the consideration of this Court as under:-

(i) Whether the Tribunal in the facts and circumstances of the case is justified in upholding the enhanced suppression of turnover?

(ii) Whether in the facts and circumstances of the case the order passed by the Tribunal suffer from an apparent Mistake/error in holding that there was suppression of turnover due to belated filing of revised returns?

(iii) Whether in facts and circumstances of the case the entire turnover detected at the time of inspection was the suppressed turnover of the Petitioner?

(iv) Whether in facts and circumstances of the case the one-time addition of equal value is correct in eyes of law?

(v) Whether in facts and circumstances of the case the levy of penalty and interest is sustainable?

(vi) Whether the Tribunal was right in dismissing the appeal vide its order 2019 STA No.96/2020 dated 29-06-2020 and Rectification Order vide ST. No: 05/2020 dated 31-03-2021 and upholding the order of the Joint Commissioner of Commercial Taxes (Appeals) vide CAS Order No: 290962738 APP in VAT AP No: 120/17-18 (AY 2012-13) dated 31-12-2018 without going into the grounds raised and the documents submitted by the petitioner?

20. Learned HCGP appearing for the respondents, while supporting the orders impugned in the present revision petition, would contend that the inspection conducted by the Enforcement Authority on 18.02.2015 and the subsequent verification of the records furnished by the petitioner disclosed a discrepancy between the purchase turnover reflected in the books of account and that disclosed in the monthly VAT returns for the tax periods October, November and December 2012. It is submitted that the discrepancy was noticed on verification of the records of the petitioner and, therefore, constituted material on the basis of which the reassessment proceedings were initiated.

21. It is further contended that the petitioner, despite the proceedings initiated by the Assessing Authority, did not furnish the requisite response or material before the Assessing Authority and, consequently, the reassessment was completed on the basis of the material available on record. The explanation that the omission in the monthly returns was an inadvertent clerical error was considered by the authorities below and was not accepted. Though the petitioner relied upon the subsequent disclosure in Form VAT-240, it had not filed revised returns in respect of the omission within the prescribed period.

22. Learned HCGP would further contend that the First Appellate Authority examined the material and the explanation furnished by the petitioner and thereafter affirmed the reassessment order. The Tribunal also considered the contentions raised by the petitioner, including the disclosure in Form VAT-240, the alleged inadvertent nature of the omission and the challenge to the estimation of turnover, and recorded reasons for upholding the orders of the authorities below.

23. Heard learned counsel appearing for the petitioner as well as learned HCGP appearing for the respondents and perused the material on record.

24. Having heard the learned counsel for the petitioner and the learned HCGP for the respondents and upon perusal of the reassessment order dated 25.10.2017, the Order-in-Appeal dated 31.12.2018, the judgment of the Tribunal dated 29.06.2020 and the rectification order dated 31.03.2021, this Court finds that an inspection was conducted at the business premises of the petitioner on 18.02.2015. Upon verification of the records furnished by the petitioner, a discrepancy was noticed between the purchase turnover reflected in the books of account and the purchase turnover disclosed in the monthly returns for October, November and December 2012. The petitioner explained the discrepancy by contending that the omission in the monthly returns was inadvertent and clerical and that the correct figures had subsequently been reflected in Form VAT-240.

25. The Assessing Authority, on the basis of the material emanating from the Enforcement Authority,

proceeded with the reassessment proceedings and completed the reassessment order dated 25.10.2017. The First Appellate Authority, upon consideration of the challenge raised by the petitioner and the material available before it, affirmed the reassessment order. The Tribunal, in turn, considered the contentions of the petitioner and the findings recorded by the First Appellate Authority.

26. The Tribunal has noticed that the discrepancy was not confined to a single return but related to the tax periods of October, November and December 2012. It has further considered the contention of the petitioner that the omission was inadvertent and that the correct purchase figures had been disclosed in Form VAT-240. The Tribunal, however, was not persuaded to accept the explanation offered by the petitioner and found that the circumstances justified the conclusion reached by the authorities below.

27. The petitioner contends that the correct purchase figures were disclosed in Form VAT-240 and that the discrepancy in the monthly returns was only an inadvertent omission. However, the discrepancy was noticed upon

verification of the books of account and the monthly returns for October, November and December 2012. The authorities below have considered the disclosure made in Form VAT-240 along with the other material on record and have found that the explanation offered by the petitioner did not satisfactorily account for the omission in the monthly returns. The Tribunal has also considered the said contention and has concurred with the findings of the authorities below. In the absence of any perversity or error of law in such findings, the same does not warrant interference in the present revision petition.

28. The petitioner has also challenged the estimation of turnover at Rs.6,33,47,526/- and the consequential levy of tax, penalty and interest. The Tribunal has considered the challenge to the estimation and has upheld the method adopted by the authorities below on the facts of the case. The petitioner has not demonstrated that the estimation was founded on no material whatsoever or that the findings recorded by the authorities below are perverse. The mere fact that another view may be possible on appreciation of the

material would not furnish a ground for interference in revisional jurisdiction.

29. The petitioner has also contended that the Tribunal failed to consider the documents and grounds urged before it. The said contention cannot be accepted. The Tribunal has considered the petitioner's explanation regarding the alleged inadvertent omission, the disclosure in Form VAT-240 and the challenge to the estimation of turnover. It has also considered the decisions relied upon by the petitioner and has found them inapplicable to the facts of the present case. The conclusion reached by the Tribunal is therefore not one rendered without consideration of the material or contentions placed before it.

30. It is also necessary to notice that the Tribunal, by its rectification order dated 31.03.2021 in ST Review No.05/2020, corrected the reference to the turnover figure of Rs.22,37,32,687/- and recorded that the turnover involved in the present appeal was Rs.6,33,47,526/-. The Tribunal treated the earlier reference to the higher figure as a typographical error and did not find any reason to alter its

substantive conclusion on the merits. The rectification, therefore, does not affect the ultimate decision rendered by the Tribunal.

31. The questions proposed by the petitioner essentially call for reconsideration of the factual findings relating to the discrepancy in the returns, the explanation offered by the petitioner, the material relied upon for reassessment and the estimation of turnover. These aspects have been considered by the authorities below and the Tribunal has recorded its reasons for affirming their conclusions.

32. In a revision under Section 65 of the KVAT Act, interference is warranted where the order under challenge gives rise to a substantial question of law. In the present case, the petitioner has not demonstrated any error of law in the decision of the Tribunal warranting such interference. The findings recorded by the authorities below are based on the material available on record and cannot be said to be perverse merely because the petitioner seeks a different appreciation of that material.

33. Insofar as the levy of penalty and interest is concerned, the petitioner has not demonstrated any independent error of law warranting interference with the conclusion reached by the authorities below.

34. For the aforesaid reasons, this Court is of the considered view that no substantial question of law arises for consideration in the present revision petition. The petitioner has failed to demonstrate any perversity, absence of material or error of law in the impugned orders warranting interference by this Court.

35. In view of the above, this Court proceeds to pass the following:-

ORDER

(i) The Revision Petition is ***dismissed***.

(ii) The order dated 29.06.2020 passed by the Karnataka Appellate Tribunal, Bengaluru, in STA No.96/2019, and the rectification order dated 31.03.2021 passed in ST Review No.05/2020, are affirmed.

(iii) Consequently, the Order-in-Appeal dated 31.12.2018 bearing CAS Order No.290962738 APP in VAT AP

No.120/17-18 (AY 2012-13) and the reassessment order dated 25.10.2017 bearing No.283246584, including the consequential levy of tax, penalty and interest, remain undisturbed.

No order as to costs.

Pending IAs if any, shall stand disposed of.

**Sd/-
(S.G.PANDIT)
JUDGE**

**Sd/-
(DR.K.MANMADHA RAO)
JUDGE**

BNV