



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JUNE 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 16756 OF 2026 (T-RES)

BETWEEN:

SRI KUNDALAGURA GUJJARAPPA MANJUANATH
PROPRIETOR OF M/S. OPERA FOOT SELECTION,
GROUND FLOOR, NO. 1503,
PID NO. 15686,
MATHA KRUPA RAMCHANDRA PRABHU BUILDING,
SS PURAM,
TUMAKURU-572 102

...PETITIONER

(BY SMT. VANI H., ADVOCATE)

AND:

1. THE SUPERINTENDENT OF CENTRAL TAX
BANGALORE NORTHWEST DIVISION- 5,
NO. 67/2, SGR COMPLEX,
RING ROAD,

Digitally
signed by
VANAMALA
N

Location:
HIGH
COURT OF
KARNATAKA



TUMKUR 572 105

2. THE KARNATAKA BANK LTD.,
MUNICIPAL NO. 2650/1,
MAIN ROAD, SOMESWARAPURAM,
TUMAKURU-572 102
REPRESENTED BY BRANCH MANAGER
...RESPONDENTS

(BY SRI. ARAVIND V. CHAVAN, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER IN ORIGINAL BEARING SL NO. 59/2024-25/BNWD 5 DATED 28.1.2025 PASSED BY THE FIRST RESPONDENT UNDER SECTION 74 OF THE GST ACT FOR THE PERIOD JULY 2017 TO MARCH 2018 VIDE ANNEXURE D; ISSUE A WRIT OF CERTIORARI OR WRIT IN THE NATURE OF CERTIORARI TO QUASH THE IMPUGNED RECOVERY NOTICE IN FORM GST DRC-13 DATED 13.10.2025 ISSUED BY THE FIRST RESPONDENT TO THE SECOND RESPONDENT UNDER SECTION 79(1)(C) OF THE GST ACT VIDE ANNEXURE F FOR PAYMENT OF AMOUNTS FROM THE ACCOUNT OF THE PETITIONER



THIS PETITION, COMING ON FOR FINAL HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD

ORAL ORDER

The petitioner, a Proprietor of a *Foot Wear Retail Shop*, has called in question the Adjudication Order dated 28.01.2025 under Section 74 of the Central Goods and Services Tax Act, 2017 [for short, '*the CGST Act*'] and the petitioner, in terms of this order, will have to answer a demand for the months from July to September 2017 with interest and penalty. The petitioner is issued with the Show Cause Notice dated 26.12.2023, and he has filed a response dated 30.01.2024. The petitioner's Auditor has also requested for a physical personal hearing instead of virtual personal hearing.



2. The first respondent has opined that the petitioner has got a GST registration on 05.09.2017 and opted for the composition scheme but while reconciling sales turnover from July 2017 to September 2017, it has not accounted for sales for the months from July 2017 to September 2017. Ms. Vani H, the learned counsel for the petitioner, argues the following.

[a] This Court must intervene under Article 226 of the Constitution of India because the first respondent has overlooked the facts such as the petitioner is registered for the first time under the VAT regime in the year 2007 and as such, would be a registered person for the GST regime also as well as contemplated under Section 22 of the CGST Act with the benefit of migration as contemplated under Section 139 of the CGST Act.



[b] The petitioner has not got GST registration on 05.09.2017 and reference thereto is an error.

[c] The petitioner has accounted sales for all months even after September 2017 offering composition tax at the rate of 1%.

[d] The first respondent could have assumed jurisdiction for adjudication under Section 74 of the CGST Act only if these circumstances were considered to opine a deliberate intention.

3. Mr. Aravind V. Chavan, a learned Standing counsel for the first respondent, submits that the petitioner has filed a response on 30.01.2024¹, and the petitioner's Auditor, who is extended an opportunity of personal hearing, has not brought forth any of these circumstances and

¹ The order refers to the reply dated 20.12.2024



therefore, the impugned order cannot be tested under Article 226 of the Constitution of India but the appellate remedy is available under Section 107 of the CGST Act.

4. The petitioner has produced certain documents to show that his concern was registered for the first time under the VAT regime in 2007 and if this is indisputable, then the question of the benefit of Section 22 of the CGST Act has to be examined. This has not been examined. If there is any registration in the year 2017, Section 139 of the CGST Act will also be crucial, and this is also an aspect that must be considered; these aspects have not been considered. This Court opines that the question of jurisdiction is presented for consideration.

5. This Court must next observe that though the first respondent has referred to the Show Cause



Notice and the reply filed on 20.12.2024 with the petitioner's Auditor making a request for a personal hearing, nothing is placed on record to indicate that this personal hearing is extended to the petitioner's representative. This also could indicate a lack of complete opportunity. Further, Ms. Vani H emphasizes that the petitioner is offering composition tax for the months after September 2017. This Court opines that there is a reason for interference, and hence, the following:

ORDER

[A] The petition is allowed-in-part.

[B] The Adjudication Order dated 28.01.2025 [Annexure - D] and the Recovery Notice dated 13.10.2025 [Annexure - F] are quashed restoring the proceedings to the first respondent for due consideration.



[C] The petitioner will be at liberty to file all documents with the first respondent by 06.07.2026, and the first respondent is directed to consider the same and decide the petitioner's cause against adjudication in accordance with law.

Sd/-
(B M SHYAM PRASAD)
JUDGE

RB