



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 28TH DAY OF JANUARY, 2026
BEFORE
THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV
WRIT PETITION NO. 38767 OF 2025 (T-RES)

BETWEEN:

M/S ELECON MEASUREMENTS PRIVATE LIMITED
NOW MERGED WITH
ELEMESURES INDIA PRIVATE LIMITED,
A COMPANY INCORPORATED UNDER THE
PROVISIONS OF THE COMPANIES ACT, 2013,
HAVING ITS REGISTERED OFFICE AT NO.47,
HARDWARE PARK, KIADB INDUSTRIAL AREA,
HUVINAYAKANAHALLI, JALA HOBLI,
BENGALURU - 562149,
REPRESENTED BY ITS AUTHORISED
DIRECTOR SRI. SAM P. CHERIAN
AGED ABOUT 48 YEARS.

...PETITIONER

(BY SRI. MOHAN S., ADVOCATE)

AND:

1. THE COMMISSIONER OF CENTRAL TAX
(APPEALS-II), TRAFFIC
TRANSIT MANAGEMENT CENTRE
BMTC BUILDING, 4TH FLOOR,
ABOVE BMTC BUS STAND, DOMLUR,
OLD AIRPORT ROAD, BENGALURU-560071.
2. THE ASSISTANT COMMISSIONER OF
CENTRAL TAX, NORTH DIVISION-8,
BENGALURU NORTH
GST COMMISSIONERATE, HMT BHAVAN,
GANGANAGAR, BELLARY ROAD,
BENGALURU - 560032.

...RESPONDENTS

(BY SRI. ARAVIND V. CHAVAN, ADVOCATE)



THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE ORDER-IN-APPEAL NO.91/2025-26 CT DATED 15.09.2025 PASSED BY THE 1ST RESPONDENT, OFFICE OF THE COMMISSIONER CENTRAL TAX (APPEALS-II) TRAFFIC TRANSIT MANAGEMENT CENTER, PRODUCED AT ANNEXURE-Q AND ORDER-IN-ORIGINAL NO.18/2024-25 ST ND-8 DATED 30.05.2024 PASSED BY THE 2ND RESPONDENT, OFFICE OF THE ASSISTANT COMMISSIONER OF CENTRAL TAX ND-8 DIVISION NORTH COMMISSIONERATE, PRODUCED AT ANNEXURE-N 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 petitioner has called in question the validity of the Order-in-Appeal at Annexure-'Q' dated 15.09.2025 passed by the respondent No.1 Appellate Authority, whereby a finding was recorded that the appeal filed was to be dismissed as not having been filed within the specified time limit.

2. The case made out is that the Order-in-Original bearing No.18/2024-25 came to be passed on 30.05.2024 confirming the demand.



3. It is the case of the Revenue that the appeal should have been filed within three months [*normally within a period of two months extendable by a further period of one month*]. A copy of the order was dispatched on 17.09.2024 and accordingly, learned counsel appearing for the Revenue would submit that the appeal ought to have been filed by 17.12.2024. It is submitted that such aspect having been taken note of rightly by the Appellate Authority, the Order-in-Appeal at Annexure-'Q' dated 15.09.2025 is passed taking note of the correct position of law.

4. Learned counsel for the petitioner would contend otherwise and submit that though the seal on the impugned order would indicate that the order was dispatched on 17.09.2024, however, on a specific query with the Postal Department, copy of the communication produced at Annexure-'P' dated 23.09.2025 would indicate that the article was dispatched for delivery on 19.09.2024, but the same has been returned to the sender with



remarks "No Such Person in the address". Accordingly, it is contented by learned counsel for the petitioner that the period of limitation ought to commence from 04.04.2025 when the petitioner had obtained a copy on request. If that were to be so, the appeal could have been filed within a period of three months from 04.04.2025 and the present appeal filed on 04.06.2025 is within the time prescribed.

5. Heard both the sides.

6. At the outset, the period of limitation to challenge the order would require to be calculated from the date of communication of the order. The applicable provision is Central Excise Act, 1944. Section 35EE(2) of the Central Excise Act reads as follows:-

"35EE. Revision by Central Government.—

(1) xxx

(2) An application under sub-section (1) shall be made within three months from the date of the communication to the applicant of the order against which the application is being made:



Provided that the Central Government may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the aforesaid period of three months, allow it to be presented within a further period of three months."

7. In light of the requirement to calculate limitation from the date of communication of the order, the present factual matrix requires to be analysed. No doubt, the Order-in-Original has the date of dispatch as 17.09.2024, which is not in dispute. Though learned counsel appearing for the Revenue would submit that once notice has been dispatched that would discharge them of any further obligation to ensure its communication, the assertion of learned counsel for the petitioner that the address to which the postal article was dispatched is correct is to be ascertained, requires to be taken note of. The Postal Department has specifically asserted that the parcel dispatched for delivery has returned to the sender with shara, 'No Such Person in the address.' The



presumption that once the article is delivered from the Postal Department would have reached the addressee in due course cannot be applied in the present case in light of the specific written stand by the Postal Department. If that were to be so, the reasoning of the Appellate Authority drawing a presumption regarding the Article having been received and deemed to have been communicated on the date of dispatch, i.e. on 18.09.2024 in the absence of contrary evidence, requires to be interfered with. The communication of the Postal Department at Annexure-'P' would be contrary evidence disentitling the Appellate Authority from drawing of presumption in normal course. Accepting the formal receipt of copy on 04.04.2025 at request of the petitioner, the appeal filed could be taken as the appeal filed within three months of the date of communication of the order.

8. Accordingly, the Order-in-Appeal at Annexure-'Q' dated 15.09.2025 is set aside and the matter is remanded to respondent No.1 Appellate Authority for



fresh consideration on merits. It is clarified that the appeal having been filed within three months from 04.04.2025 is to be taken as the appeal filed within time and accordingly, a direction is passed to take the appeal on merits and decide accordingly in accordance with law.

Subject to the above directions and observations, the petition is ***disposed of***. It is clarified that the finding regarding limitation is in the peculiar facts of the present case.

Sd/-
(S SUNIL DUTT YADAV)
JUDGE

VGR