IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 27TH DAY OF SEPTEMBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT

REVIEW PETITION NO. 100009 OF 2020

BETWEEN:

M/S. H.V.K. AGENCIES,
A PROPRIETORSHIP CONCERN,
TIN NO.29740775 508, AT CTS NO.3046,
HIREPETH, HUBBALLI,

REP. BY ITS PROPRIETOR,
SRI. PAVAN S/O VENKATESH KANDAKUR,
AGE: 38 YEARS,
RES: HUBBALLI, DIST DHARWAD.

... PETITIONER

(BY SRI. NARAYAN G RASALKAR, ADVOCATE)

AND:

1. JOINT COMMISSIONER OF COMMERCIAL TAXES
(APPEALS), (ENFORCEMOENT), NAVANAGAR,
HUBBALLI-580021, TQ: HUBBALLI, DIST: DHARWAD.

2. THE COMMERCIAL TAX OFFICER
(ENFORCEMENT-5), NAVANAGAR,
HUBBALLI-580021, HUBBALLI TALUK, DIST: DHARWAD.

... RESPONDENTS

(BY SRI. V.S. KALASURMATH, HCGP)

VISHAL NINGAPPA PATTIHAL
Digitally signed by VISHAL NINGAPPA PATTIHAL
Location: High Court of Karnataka, Dharwad Bench
Date: 2024.09.30 10:24:59 +0530

THIS REVIEW PETITION IS FILED UNDER ORDER 47 RULE 1 OF CPC, 1908, PRAYING TO REVIEW THE JUDGMENT AND ORDER DATED 24.04.2019 PASSED IN WRIT PETITIONS NO.104742-104743 OF 2018 T-RES IN THE INTEREST OF JUSTICE, OTHERWISE THE PETITIONERS WILL SUFFER IRREPARABLE LOSS AND INJURY DUE TO MISCARRIAGE OF JUSTICE.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT)

The subject writ petitions were dismissed by this Court by the judgment now put in review. Denial of relief to the review petitioner was *inter alia* on the ground of delay & laches, which aspect have been dealt with at paragaraph No.3 of the said judgment, as under:

> "3. The impugned order specifically states that the assessment order was made in the absence of the Books of Accounts which the petitioner, despite repeated notices, did not choose to produce. It also states about his application dated 10.12.2012 made under Section 38(5)(b) of the Act having already been rejected on 03.05.2015, the present application is not maintainable. This aspect of the matter has not been controverted by the petitioner. Thus, the present petition is militantly belated and no explanation is offered for not challenging the said order. What is now challenged is the reiteration of the endorsement and therefore, the same cannot be found fault with."

2. No ground is made out for invoking the review jurisdiction. Merely because, the Division Bench in review petitioner's W.A. No.100432/2019 (T-RES), disposed off on 03.12.2019 has reserved liberty to seek review, that does

not mean that there is a *prima facie* case for review, as such.

3. Learned HCGP is right in telling the Court that the review petitioner ought to have filed appeal against the order that was put in challenge in the subject writ petitions. He tells that no such appeal has been filed as yet. This he says on the instruction of his Officer who is personally present in the Court.

In the above circumstances, this review petition is liable to be and accordingly rejected, costs having been made easy.

Sd/-
(KRISHNA S.DIXIT)
JUDGE

Vnp /
List No.: 1 Sl No.: 211