



NC: 2024:KHC-K:2946
WP No.204547 of 2019
C/W WP No.202419 of 2019

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 8TH DAY OF APRIL, 2024

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

WRIT PETITION NO. 204547 OF 2019 (T-RES)

C/W

WRIT PETITION NO. 202419 OF 2019 (TAX)

IN W.P. NO.204547 OF 2019:

BETWEEN:

M/S KESORAM INDUSTRIES LTD.,
LAXMINARAYAN NAGAR, SEDAM,
KALABURAGI-585222.
REP. BY ITS MANAGER

...PETITIONER

(BY SRI KOUJALAGI C.L., ADVOCATE AND
SRI N. MANOHAR, ADVOCATE)

AND:

THE SUPERINTENDENT
OFFICE OF THE CENTRAL TAX & CENTRAL EXCISE
RANGE-C, GULBARGA DIVISION,
BEHIND TV STATION,
KAPNOOR, KALABURAGI-585104.

...RESPONDENT

(BY SRI ROSHAN CHABBI, ADVOCATE FOR
SRI SHIVARAJ BALLOLI, ADVOCATE)

Digitally
signed by
RENUKA
Location:
High Court
Of Karnataka



THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, PRAYING TO A) ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION, QUASHING THE PROCEEDINGS NO.OC/108/2019 OF THE RESPONDENT DATED 03.06.2019 (ANNEXURE-D).

IN W. P. NO.202419 OF 2019

BETWEEN:

M/S KESORAM INDUSTRIES LTD,
LAXMINARAYAN NAGAR, SEDAM,
KALABURAGI-585222
REPRESENTED BY ITS SR. MANAGER

...PETITIONER

(BY SRI N. MANOHAR, ADVOCATE)

AND:

THE SUPERINTENDENT
OFFICE OF THE CENTRAL TAX & CENTRAL EXCISE
RANGE-C, GULBARGA DIVISION
BEHIND TV STATION,
KAPNOOR, KALABURAGI-585104

...RESPONDENT

(BY SRI GIRISH HULMANI, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT ORDER OR DIRECTION, QUASHING THE PROCEEDINGS OF THE RESPONDENT HEREIN IN OC NO.45/2019 DATED 12.04.2019 (ANNEXURE-A). ISSUE A WRIT OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT ORDER OR DIRECTION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA DIRECTING THE RESPONDENT HEREIN TO COMPLETE THE ADJUDICATION IN TERMS OF SECTION 73 OF THE CENTRAL GOODS AND SERVICES TAX ACT 2017 AFTER ISSUANCE OF A SHOW CAUSE



NOTICE IN TERMS OF SECTION 73(1) OF THE CENTRAL GOODS AND SERVICES TAX ACT 2017.

THESE WRIT PETITIONS ARE COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Heard Sri Koujalagi Chandrakanth Laxman, learned counsel for the petitioner and Sri Roshan Chabbi, learned counsel for Sri Shivaraj Balloli learned counsel for respondent in W.P.No.204547/2019 and Sri N. Manohar, learned counsel for the petitioner and Sri Girish Hulmani learned counsel for the respondent in W.P.No.202419/2019.

2. The writ petitions are filed with the following prayer:

In W.P.No.204547/2019:

"a) Issue a Writ of Certiorari or any other appropriate Writ, order or direction, quashing the proceedings No.OC/108/2019 of the Respondent dated 03.06.2019 (Annexure-D).



b) Grant such other reliefs which this Honorable Court deems fit in the circumstances of this case."

In W.P.No.202419/2019:

"a) Issue a Writ of Certiorari or any other appropriate Writ order or direction, quashing the proceedings of the respondent herein in OC No.45/2019 dated 12.04.2019 (Annexure-A)

b) Issue a Writ of Mandamus or any other appropriate writ order or direction under Article 226 of the Constitution of India directing the respondent herein to complete the adjudication in terms of Section 73 of the Central Goods and Services Tax Act 2017 after issuance of a show cause notice in terms of Section 73(1) of the Central Goods and Services Tax Act 2017 or

c) Grant such other relief/s, which this Hon'ble Court deems fit under the circumstances of the case."

3. The petitioner is a Factory situated at Kalaburagi. The petitioner was assessed under the provisions of Central Excise Act, 1944 and the respondent



served with a notice for recovery of sum of Rs.3,82,97,676/- due to delayed filing of returns. A detailed worksheet was also enclosed to substantiate the claim as aforesaid along with the notice. The said notice is at Annexure – A. The same was challenged before this Court in W.P.No.202419/2019. A representation came to be filed by the petitioner to the respondent. But it is the contention of the writ petitioner that without considering the representation, a demand of statutory obligation to pay the interest on total tax liability for the belated payment has been made by the respondent. Therefore, the petitioner is before this Court seeking quashing of order dated 03.06.2019 vide Annexure – D.

4. Sri Koujalagi Chandrakanth Laxman, learned counsel for the petitioner and Sri N. Manohar, contended that the demand vide Annexures – A and D claiming statutory interest are incorrect.



5. *Per contra*, Sri Roshan Chabbi and Sri Girish Hulmani, learned counsel for the respondent supports the demand under Annexures – A and D.

6. Having heard the learned counsel for the parties, this Court perused the material on record meticulously.

7. The grievance of the writ petitioner is that the respondent failed to provide an opportunity of personally hearing heard and therefore, the demand under Annexure – D is illegal. It is also the grievance of the writ petitioner that the online portal did not work properly and therefore, the petitioner could not upload eligible input tax credit and there was a shortfall in upholding the books of account claiming for edibility insofar as the input tax credit is concerned and therefore, the shortfall has occurred which is beyond the control of the petitioner and therefore, sought for waiver of the interest by quashing the interest at Annexure – D.



8. Such contentions urged on behalf of the petitioner cannot be countenanced in law for more than one reason. In the first place, there was a shortfall of Rs.3,82,97,676/- vide Annexure – A. The petitioner approached in W.P.No.202419/2019. As per the order passed by the Co-Ordinate Bench of this Court, this Court stayed the operation of Annexure – A so as to provide an opportunity for the writ petitioner to approach the respondent/authority for processing his request vide Annexure – B in the said writ petition. The time limit was also prescribed in the said order of maximum period of 15 days.

9. In pursuance of the said interim directions issued by this Court in the aforesaid writ petition, the representation of the petitioner was processed and in the meantime, the petitioner said to have paid the necessary shortfall amount. Admittedly, while making such payment, there occasioned a delay in meeting shortfall. In that regard, the petitioner made a request that it is on



account of the reasons beyond the control of the petitioner, inasmuch as he could not upload the input tax credit in time on account of computer portal not working properly. Annexure – D came to be issued by the respondent on 03.06.2019, whereunder input tax credit component lying in GST electronic cash ledger was taken into consideration by the respondent with relevant provisions. Section 16(1) of the CGST Act and effect of Section 16(2) of the said Act has been considered by the authority and so also Section 41(1) and 41(2) of the said Acts were considered by the respondent. The respondent also considered the effect of Section 49 of the said Act which deals with the payment of tax, interest, penalty and other amount in the light of the delayed made by the petitioner.

10. Taking note of all these aspects of the matter and also considering the judgment of the High Court of Telangana in W.P.No.44517/2018, in the case of **#M/s. Megha Engineering & Infrastructures Ltd. Vs. The**



Commissioner of Central Tax, Hyderabad and others,
especially advertng to paragraph Nos.36 and 38 of the
said judgment, respondent over-ruled all the objections
taken by the petitioner in making the belated payment of
tax and directed that the petitioner is under statutory
obligation to pay interest on the total tax liability.

11. Under such circumstances, the contentions
urged in the writ petitions on behalf of the petitioner
cannot be countenanced in law.

12. Therefore, the following:

ORDER

The Writ Petitions lack merit and are
hereby dismissed.

Sd/-
JUDGE

RSP
CT:SI
LIST NO.: 1 SL NO.: 41