



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF SEPTEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 20966 OF 2024 (T-RES)

BETWEEN:

M/S BVM TRANS SOLUTIONS PRIVATE LIMITED
BESIDES ROYAL OAK,
NO.42/9, 42/10,
MEENAKUNTE VILLAGE,
JALA HOBLI,
BENGALURU - 562 157
REPRESENTED BY DGM - TRANSPORT
MR. PREM SUNDAR,
AUTHORISED SIGNATORY.

...PETITIONER

(BY SMT. VEENAKAMATH, ADVOCATE FOR
SRI. GOVINDRAYA KAMATH K.,ADVOCATE (VC))

AND:

Digitally signed
by
LEELAVATHI S
R
Location: HIGH
COURT OF
KARNATAKA

1. COMMERCIAL TAX OFFICER
(ENFORCEMENT)-55
SOUTH ZONE,
KORAMANGALA,
BENGALURU - 560 047
2. JOINT COMMISSIONER
OF COMMERCIAL TAXES (APPEALS)-4,
SHANTINAGAR, BENGALURU - 560 027
3. ADDITIONAL COMMISSIONER
OF COMMERCIAL TAXES,
ZONE-II, GANDHINAGAR,



BENGALURU-560 009

...RESPONDENTS

(BY SRI. HEMAKUMAR K., AGA FOR RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED PROCEEDINGS DATED 21.05.2024 OF THE 3RD RESPONDENT UNDER SECTION 108(1) OF THE KGST/CGST ACT, 2017 AT ANNEXURE-A BY ISSUING A WRIT OF CERTIORARI OR ANY OTHER ORDER IN THE NATURE OF A WRIT OF CERTIORARI AND ETC.

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

CORAM: HON'BLE MR JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

In this petition, petitioner seeks the following reliefs:

- "a) *Set aside the impugned proceedings dated 21.05.2024 of the 3^d respondent under Section 108(1) of the KGST/CGST Act, 2017 at Annexure-A by issuing a writ of certiorari or any other order in the nature of a writ of certiorari;*
- b) *Grant any other relief in favour of the petitioner that this Hon'ble Court deems fit in the facts and circumstances of the present case."*

2. Heard learned counsel for the petitioner and learned counsel for the respondent and perused the material on record.



3. A perusal of the material on record will indicate that pursuant to the Order of Detention dated 16.11.2023, passed by respondent No.1 under Section 129(1) of the KGST Act, 2017, the petitioner filed a detailed reply dated 22.11.2023 and further submission on 01.12.2023, which were rejected by order dated 02.12.2023 passed by respondent No.1 under Section 129 of the KGST Act. Subsequently, vide release order dated 08.12.2023, the subject goods were released and delivered in favour of M/s. Bosch Limited on 08.12.2023.

4. Aggrieved by the order dated 02.12.2023, the petitioner filed an appeal before respondent No.2, Appellate Authority under Section 107 of KGST Act, which was allowed by respondent No.2 vide order dated 18.03.2024 setting aside the order dated 02.12.2023. However, respondent No.2 thought it fit and expedient to invoke Section 125 of KGST Act and imposed maximum penalty of Rs.25,000/- upon the petitioner. It is the grievance of the petitioner that despite order passed by respondent No.2 - Appellate Authority levying penalty only to an extent of Rs.25,000/-, respondent No.3 illegally, unilaterally, arbitrarily and without jurisdiction or authority of law proceeded to pass the



impugned order dated 18.03.2024 without either notifying the petitioner nor providing any opportunity to the petitioner thereby violating the principles of natural justice and as such, petitioner is before this Court by way of the present petition.

5. A perusal of the impugned order at Annexure-A dated 21.05.2024 will indicate that respondent No.3 has purportedly invoked revisional jurisdiction under Section 108 of KGST Act. According to learned counsel for the petitioner, the very invocation of the revisional jurisdiction under Section 108 of KGST Act is without jurisdiction or authority of law and the impugned order is illegal, arbitrary and violation of principles of natural justice.

6. Per contra, learned AGA would support the impugned order and submits that respondent No.3 was entitled to invoke the revisional jurisdiction conferred by it under Section 108 of KGST Act and submits that there is no merit in the petition and the same is liable to be dismissed.

7. Though several contentions have been urged by both sides in respect of their respective claims, having regard to the undisputed fact that the petitioner was not notified nor provided any opportunity by respondent No.3 before passing the impugned order



purporting to invoke Section 108 of KGST Act, I deem it just and appropriate to set aside the impugned order reserving liberty in favour of the respondent to take appropriate steps in accordance with law after duly notifying the petitioner and hearing him in accordance with law.

8. In the result, I pass the following:

ORDER

- i) The petition is hereby allowed.
- ii) Impugned order at Annexure -A dated 21.05.2024 passed by respondent No.3 is hereby quashed.
- iii) Liberty is reserved in favour of respondent No.3 to take necessary steps in accordance with law subject to all just exceptions and defences available to the petitioner and after duly notifying the petitioner and providing sufficient and reasonable opportunity to the petitioner in accordance with law.
- iv) All rival contentions between the parties including jurisdiction of the respondents, maintainability, legality



etc to invoke Section 108 of KGST Act, 2017 are kept open and no opinion is expressed on the same.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

MDS
List No.: 1 SI No.: 14