IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY, 2025

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 20030 OF 2025 (T-RES)

BETWEEN:

M/S UNIVERSAL SOMPO GENERAL
INSURANCE COMPANY LIMITED
REGISTERED UNDER COMPANIES ACT, 1956
OFFICE NO.7, 2ND FLOOR,
SHAH COMPLEX, 9TH MAIN,
5TH BLOCK, JAYANAGAR
BENGALURU,
BENGALURU URBAN,
KARNATAKA - 560041

REPRESENTED BY ITS
FINANCIAL CONTROLLER
MR. BANKIM MAPARA
S/O DINESH CANDRA RAMNIKLAL MAPARA
AGED ABOUT 48 YEARS,
OFFICE AT NO.7, 2ND FLOOR,
SHAH COMPLEX, 9TH MAIN
5TH BLOCK, JAYANAGAR
BENGALURU, BENGALURU URBAN
KARNATAKA - 560041

...PETITIONER

(BY SRI. P.B. HARISH, ADVOCATE)

AND:

1. JOINT COMMISSIONER OF
COMMERCIAL TAXES (APPEALS)-5,

ASSISTANT COMMISSIONER (ST)
DGSTO-5, V.T.K.-2, ROOM NO.506,
5TH FLOOR, KORAMANGALA
BANGALORE - 560047

2. DEPUTY COMMISSIONER OF
COMMERCIAL TAXES (AUDIT) - 5.3
DGSTO-5, V.T.K.-2, ROOM NO.506,
5TH FLOOR, KORAMANGALA
BANGALORE - 560047

...RESPONDENTS

(BY SMT. JYOTI M MARADI, HCGP)

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THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED OIA BEARING REFERENCE NO. GST.AP.117/2023-24 DATED 30.08.2024 PASSED BY THE RESPONDENT NO. 1 VIDE ANNEXURE-A AND SET ASIDE THE DEMAND UPHELD THEREIN IN TOTO., ETC.

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

CORAM: HON'BLE MR. JUSTICE M.NAGAPRASANNA

ORAL ORDER

The petitioner is before this Court, calling in question an order dated 30.08.2024, wherein the demand of the revenue is upheld.

2. Heard Sri.P.B. Harish, learned counsel appearing for the petitioner and Smt. Jyoti M. Maradi, learned HCGP for

respondents No.1 and 2 and have perused the material on record.

A FEW FACTS:

3. The petitioner is engaged in the business of rendering general insurance services across the Nation. It is registered with the Insurance Regulatory and Development Authority of India. The petitioner's principle place of business is in Karnataka. On 10.12.2019, the Enforcement Authority of South Zone, conducts an inspection at the petitioner's registered place of business; prepares a report based on the inspection, the accounts of the petitioner was subjected to the audit enquiry and audit observation on 11.01.2023. An audit report was prepared against the petitioner. On 03.02.2023, the audit report was communicated to the petitioner. The petitioner submitted a detailed reply on 20.02.2023 contesting all the observations made in the course of the audit report. The petitioner then was in receipt of an Intimation Notice on 10.04.2023 and despite the objections filed, a show cause notice proposing a demand under Section 73 of the Central Goods and Services Tax Act, 2017 (for short 'the Act'), is

issued. The petitioner again submits another detailed reply with supporting documents contesting the allegations made therein.

4. Notwithstanding the same, the order in original springs on 20.05.2023. The petitioner then files an application seeking rectification of the order in original, as obtaining under Section 161 of the Act. The rectification application comes to be rejected. The petitioner challenges the said rectification application within the department and an order in appeal is passed on 30.08.2024, confirming the tax demand. It is challenging this order, the petitioner is before this Court in the subject petition.

5. The learned counsel for the petitioner would restrict his submission by taking this Court to the documents appended to the petition to *prima facie* demonstrate that the documents that the appellate authority took on record does not bear consideration in the order impugned. The learned counsel appearing for the petitioner submits that on 26.12.2023, the

appellate authority had permitted the petitioner to file certain documents. The documents that were placed before the authority are as follows:

> "Dear Sir, Ma'am,
>
> We, Universal Sompo General Insurance Company Limited ('USGICL' or 'the Company'), refer to the captioned appeal and related communications dated 14 December 2023 and 11 December 2023. In this regard, during our visit to your office on 19 December 2023 we explained the erroneous computation considered by the order for the purpose of fixating the present liability and requested for quashing the demand fastened by the Order dated 20 May 2023 owing to the same being erroneous in facts and contentions.
>
> In addition, and in continuation to our verbal discussion during the personal hearing on 19 December 2023, as requested, we wish to submit the following for your ready reference:

Sl. No.	Information Requested	Our submission
1	Self-certified copy of Form GSTR 6 for the period January 2018-March 2018	Refer Annexure 1
2	Self-certified copy of grievance raised on the GSTN portal regarding Input Tax Credit ('ITC') from Input Service Distributor not being reflected in Form GSTR-2A	Refer Annexure 2
3	Computation of reversal under Rule 42 of Central Goods and Services Tax Rules, 2017 ('CGST Rules')	Refer Annexure 3
4	Details of reversal under Rule 37 of the CGST Rules, 2017	We wish to submit that the Company has reversed the following ITC under

		Rule 37 of CGST Rules, which was erroneously considered in rule 42 of CGST Rules: 1. Invoices received on which ITC is availed and reversed due to non-payment to the supplier within 180 days of issuance of invoice. 2. ITC reversal on invoices issued to the Company but payment not made to the supplier within 180 days of issuance of invoice
5	Self-certified copy of Form GST TRAN-1	Refer Annexure 4
6	Self-certified copy of Electronic Credit Ledger statement for the period July 2017 to March 2018	Refer Annexure 5

We request you to keep the above on record and consider the same before passing the order. Further, we request you to allow us due opportunity of being heard before any adverse order is issued in the matter.

Thanking you,

Yours sincerely,

For and on behalf of Universal Sompo General Insurance Company Limited,
NILESH MADHUKAR MEJARI
Authorized Signatory

Encl: As above."

6. The appellate authority has received the said documents. The documents were six in number. The impugned order is passed about eight months after the receipt of the documents. The impugned order does not bear the reference to any of these documents that were produced by the petitioner, which had been permitted, by the appellate authority himself to be placed on record, which was complied with on 26.12.2023.

7. In the light of the non-consideration of the documents that were placed before the appellate authority in the ultimate order of the appellate authority, then it appears the procedural flaw has emerged that the documents are not considered by the appellate authority in the order, which would also be in violation of the principles of natural justice as the opportunity that was granted to place evidence on record does not bear consideration in the impugned order. In that light on this Court alone, the impugned order deserves to be set aside and the matter remitted back to the hands of the appellate authority - Joint Commissioner of Commercial Taxes to hear and to pass

necessary orders after considering the documents that were placed before it on 26.12.2023, as nobody would foresee as to whether the documents so produced before the appellate authority would turn the tables in favour of the assessee.

8. In that light, I pass the following:

ORDER

i) The petition is **allowed-in-part**;

ii) The impugned order dated 30.08.2024 bearing No.GST.AP.117/2023-24, passed by the respondent No.1 - Joint Commissioner of Commercial Taxes at Annexure A, stands quashed;

iii) The matter is remitted back to the hands of the appellate authority who shall consider the appeal afresh bearing in mind the observations made during the course of the order;

iv) In the light of the matter being remitted back to the hands of the appellate authority, I deem it appropriate to further observe that the appellate authority shall grant personal hearing to the petitioner *qua* the documents that are produced on 26.12.2023.

v) In that light, the petitioner to appear before the appellate authority - Joint Commissioner of Commercial Taxes, on **29.09.2025 at 3:00 p.m.**

vi) The appellate authority, shall, after hearing the petitioner on the documents so produced, pass necessary orders, in accordance with law.

Sd/-
(M.NAGAPRASANNA)
JUDGE

BMV*
List No.: 1 Sl No.: 40