NC: 2025:KHC:31515
WP No. 21592 of 2025

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF AUGUST, 2025

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 21592 OF 2025 (T-RES)

BETWEEN:

M/S. KOHILO SYSTEMS PRIVATE LIMITED,
A REGISTERED COMPANY UNDER COMPANIES ACT,
1965, HAVING REGISTERED OFFICE AT
OLD NO.4, NEW NO.7, 2ND CROSS ROAD,
NEW GURUPPANAPALYA, BENGALURU,
KARNATAKA - 560 029.
(GTIN: 29AAFCK9563N1ZM)
REPRESENTED BY ITS MANAGING DIRECTOR
MR. SYED HARIS, S/O SYED MUSHTAQ,
AGED ABOUT 43 YEARS.

...PETITIONER

(BY SRI. RAJEEV CHANNAPPA NULVI, ADVOCATE)

AND:

1. THE COMMERCIAL TAXES OFFICER,
LGSTO-040, BENGALURU,
1ST FLOOR, VTK-2, 2ND STAGE,
RAJENDRA NAGAR, KORMANGALA,
BENGALURU - 560 047.

2. THE JOINT COMMISSIONER OF COMMERCIAL TAX
(APPEALS) - 8, BENGALURU, BMTC BUILDING
KORMANGALA, BENGALURU - 560 095.

...RESPONDENTS

(BY SMT. JYOTI M.MARADI, HCGP)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI OR A DIRECTION IN THE NATURE OF WRIT OF CERTIORARI TO SET-ASIDE ORDER NO. ZD290425097874N U/S 107(11) OF THE KGST/CGST ACT, 2017 ON 29/04/2025 PASSED BY THE JOINT COMMISSIONER OF COMMERCIAL TAXES (APPEALS) - 8, BANGALORE (ANNEXURE-E) AND ETC.

THIS 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 seeking the following prayers:

> "(a) Issue a Writ of Certiorari or a direction in the nature of writ of Certiorari to set-aside Order No. ZD290425097874N u/s 107(11) of the KGST/CGST Act, 2017 on 29/04/2025 passed by the Joint Commissioner of Commercial Taxes (APPEALS) - 8, Bangalore (**ANNEXURE-E**);
>
> (b) To pass any such other Writ, Order or Direction as this Hon'ble court might deem fit to be issued in the fact and circumstances of the case in the interest of justice and equity;
>
> (c) To direct the Respondents to pay the costs of this Writ Petition as this Hon'ble Court deems fit."

2. Heard Sri.Rajeev Channappa Nulvi, learned counsel appearing for the petitioner, Smt.Jyoti M. Maradi, learned HCGP appearing for the respondents and have perused the material on record.

3. The petitioner-Company is said to be filing its GST returns regularly. It transpires that the petitioner receives a notice for tax period July 2017 to March 2018 on 13.09.2022 and the show cause notice thereon on 25.09.2023.

4. Learned counsel for the petitioner submits that he was not aware of the notice being issued on account of his email not functioning.

5. Learned counsel for the respondents now submits that it would be posted on the portal and there can be no contention that the email of the petitioner was not functioning, since the portal would display the notices so issued. The learned counsel however submits that he filed an appeal after coming to know of the order that was passed against him

before the Appellate Authority under Section 107 of the GST Act. The said appeal comes to be rejected on the ground that it is filed with a delay of 45 days beyond the 90 days period that was condonable of a threshold of 30 days. In all, the limitation that is ascribed in Section 107 is that the appeal should be filed within 120 days to the maximum. Since the appeal was filed with an application seeking condonation of delay of 45 days and that delay was not condonable at the hands of the Appellate Authority in the light of the statute, the appeal comes to be rejected. Therefore, the petitioner is before this Court.

6. The contention of the petitioner is that he has not received the Show Cause Notice and therefore, no reply was submitted. All these were projected before the Appellate Authority. In the light of the submission that the petitioner did not receive the Show Cause Notice even and had not submitted his reply, the matter though would be remitted to the Appellate Authority as per the challenge, the matter should now go back to the stage at which the reply to the Show Cause Notice has to be submitted by the petitioner. As the contention for the delay is that he was not aware of the notice at all, the petitioner

therefore now shall submit a reply to the Show Cause Notice within four weeks from the date of receipt of the copy of this order and the authority shall pass necessary orders upon consideration of the reply to the Show Cause Notice. All other remedies to the petitioner subsequent to the said order shall remain open.

7. The perusal at the averments made in the petition would indicate that the petitioner had some justification for the delay being accrued of 45 days beyond 120 days, as the petitioner was not aware of the proceedings. In that light, I deem it appropriate to direct the respondents to consider the appeal on its merit that is now filed, without reference to delay, subject to the payment of costs of ₹25,000/- payable to the Karnataka State Legal Services Authority. The costs shall be deposited within 4 weeks from the date of receipt of the copy of this order.

In the light of what is aforesaid, the following:

ORDER

[i] Writ petition is allowed in part.

[ii] The Order dated 29.04.2025 bearing NO.ZD290425097874N u/s 107(11) of the KGST Act, 2017 passed by the Joint Commissioner of Commercial Taxes (Appeals)-8, Bangalore, vide Annexure-E stands quashed.

[iii] The Order dated 22.12.2023 bearing No.CTO/LGSTO-040/DRC-07/R2AvsR3B/25/2023-24 passed under section 73 of the KGST Act, 2017/Order under section 73 read with Section 6 of the CGST Act, 2017/Order under Section 20 of the IGST Act,2017, vide Annexure-B, stands quashed.

[iv] The matter is remitted back to the hands of the Appellate Authority to answer the appeal on its merit, without insistence on the delay in the light of the observations made in the course of the order and production of the receipt of payment of costs as directed.

Sd/-
(M.NAGAPRASANNA)
JUDGE

CBC
List No.: 1 Sl No.: 39
CT:SS