HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF OCTOBER, 2025

BEFORE

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

WRIT PETITION NO. 26531 OF 2025 (T-RES)

BETWEEN:

M/S VASUDEV ENTERPRISES,
REPRESENTED BY ITS
SOLE PROPRIETOR
SRI KESHAVA MURTHY RAJENDRA VASUDEV
SON OF CL KDSHAV MURTHY
AGED ABOUT 65 YEARS
394, DILIP PAZA, BASEMENT,
BENGALURU INTERNATIONAL AIRPORT ROAD,
BYATARAYANAPURA
BENGALURU - 560 092

…PETITIONER

(BY SRI. JOSEPH VARGHESE, ADVOCATE)

AND:

THE COMMERCIAL TAX OFFICER,
LGSTO-152 BENGALURU,
OFFICE OF THE
ASSISTANT COMMISSIONER OF
COMMERCIALL TAXES, LGSTO - 152,
SAMAYA TOWERS,
TATA NAGAR MAIN ROAD,
BANGALORE - 560 092

…RESPONDENT

(BY SRI. K. HEMA KUMAR, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI QUASHING THE SHOW CAUSE NOTICE ISSUED UNDER SECTION 73(1) OF KGST ACT DATED 15.11.2024 BEARING NO. CTO/LGSTO-152/DRC-01/2024-25 ISSUED BY THE RESPONDENT HEREIN MARKED AND REFERRED AS ANNEXURE-A1 AND ETC.,

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

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

ORAL ORDER

In this petition, the petitioner seeks following reliefs:

i) Issue a writ of certiorari quashing the show cause notice issued under Section 73(1) of KGST Act dated 15.11.2024 bearing No.CTO/LGSTO-152/DRC-01/2024-25 issued by the Respondent herein marked and referred as Annexure-A1.

ii) Issue a writ of Certiorari quashing the Summary of show in Form GST DRC-01 cause notice dated 16/11/2024 vide Reference No. ZD2911240733331 issued by the Respondent herein marked and referred as Annexure-A2.

iii) Issue a writ of Certiorari quashing the Order passed under section 73(9) of the Act vide Order No. CTO/LGSTO-152/DRC-07/2024-25 dated 12.02.2025 herein marked and referred as Annexure-A3.

iv) Issue a writ of Certiorari quashing the Summary Order in Form DRC-07 vide Reference No. ZD290225047142M dated 12.02.2025 herein marked and referred as Annexure-A4.

v) Issue a writ of Certiorari quashing the notice issued under section 79(1)(c) in Form GST DRC-13 dated

16.06.2025 by the Respondent bearing No. CTO/LGSTO-152/DRC-13/2025-26/617 herein marked and referred as Annexure-A5.

vi) *Alternatively, remand the matter to the Show Cause Notice Stage, directing the Respondent to adjudicate the proceedings afresh in accordance with law, after granting the Petitioner a fair and effective opportunity to be heard and considering all documents and records furnished;*

vii) *And pass such other orders as this Hon'ble Court deems fit and proper in the interest of justice and equity.*

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

3. A perusal of material on record will indicate that the respondent issued a intimation notice in Form GST DRC-01A dated 07.11.2024 under Rule 142(1A) of the CGST/KGST Rules, 2017, to the petitioner, who did not issue any reply/response to the same. Subsequently, the first respondent issued a show-cause notice dated 15.11.2024 under Section 73(1) of the CGST/KGST Act, 2017 alleging that the there was a difference in availment of ITC between GSTR-3B and GSTR-2A. Since the petitioner did not

submit his reply to the said show-cause notice also, the respondent proceeded to pass the impugned order dated 12.02.2025 under Section 73(9) read with section 61 and section 50 of the CGST/KGST Act, 2017 confirming the total demand of Rs.5,13,460/- including the tax, interest and penalty. In pursuance of the same, the first respondent issued notice dated 16.06.2025 under Section 79(1)(c) of the CGST/KGST Act, 2017 directing attachment of the petitioner's bank accounts for recovery of the alleged tax dues.

4. Learned counsel for the petitioner submits that the petitioner and appointed a tax-consultant by name Sri.G.V.Prasanna Reddy to comply with the notices issued by the respondents but the said tax consultant failed to file replies/ documents nor did contest the said proceedings which culminated in the impugned ex-parte order. It is submitted that the petitioner was not aware regarding the inaction of his tax-consultant with respect to contesting the proceedings and was under the bonafide impression that the said tax consultant would represent the petitioner and contest the proceedings till he received the notice dated 16.06.2025 under Section 79(1)(c) of the CGST/KGST Act,

2017 directing the attachment of his bank accounts. Aggrieved by the said order and the notice dated 16.06.2025 the petitioner has approached this Court by way of the present petition *interalia* contending that the inability and omission on the part of the petitioner to submit a reply to the intimation notice and show-cause notice and contest the proceedings was due to bonafide reasons, unavoidable circumstances and sufficient cause and submits that if one more opportunity is provided, by setting aside the impugned order, the petitioner would submit a reply to the show-cause notice and contest the proceedings.

6. Per contra, learned HCGP for the respondents 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 as regards to the petitioner's tax consultant having not filed replies/ documents to the pre- intimation notice and show-cause notice and his inability and omission to contest the proceedings, which culminated in the impugned *ex-parte* order.

8. Under these circumstances, having regard to the specific assertion on the part of the petitioner that his inability and omission to submit replies and contest the proceedings was due to bonafide reasons, unavoidable circumstances and sufficient cause, I deem it just and appropriate to adopt a justice oriented approach and provide one more opportunity to the petitioner by setting aside the impugned order dated 12.02.2025 and remitting the matter back to the first respondent for reconsideration of the matter afresh in accordance with law to the stage of petitioner submitting reply to the impugned show-cause notice.

9. In the result, I pass the following:

ORDER

(i) The petition is hereby allowed.

(ii) The impugned orders dated 12.02.2025 passed by the respondent under Section 73(9) read with section 61 of the CGST/KGST Act, 2017 at Annexure – A3 and A4 and notice dated 16.06.2925 issued under section 79(1)(c) of the CGST/KGST Act, 2017 at Annexure – A5 are hereby set aside.

(iii) The matter is remitted back to the respondent for reconsideration afresh in accordance with law from the stage of petitioner submitting its reply to the notice dated 15.11.2024 issued under section 73(1) of the CGST/KGST Act, 2017 at Annexure – A1.

(iv) The petitioner is directed to appear before the first respondent on 10.11.2025 without awaiting further notice from the first respondent.

(v) The liberty is reserved in favour of the petitioner to submit replies, documents etc., which shall be considered by the first respondent who shall provide sufficient and reasonable opportunity to the petitioner and hear them and proceed further in accordance with law.

vi) In the event, the Petitioner does not appear before the respondent on 10.11.2025 as stated supra, present order shall stand automatically recalled without further orders.

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

MDS
List No.: 1 Sl No.: 16