HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF OCTOBER, 2025

BEFORE

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

WRIT PETITION NO. 26846 OF 2025 (T-RES)

BETWEEN:

M/S INTERNATIONAL INSTITUTE FOR LEARNING
(INDIA) PVT. LTD.,
REPRESENTED BY ITS
DIRECTOR ABDULL KAREEM AHMED
WS 08, GOLDEN SQUARE,
NO. 403, EDEN PARK,
VITTAL MALLYA ROAD,
BENGALURU - 560 001
(UNDER REGISTERED COMPANIES ACT, 1956)

…PETITIONER

(BY SRI. JOSEPH VARGHESE, ADVOCATE)

AND:

THE COMMERCIAL TAX OFFICER,
LGSTO-20M BENGALURUM
OFFICE OF THE ASSISTANT COMMISSIONERJ
OF COMMERCIAL TAXES, LGSTO-20,
N0 19/3, 2ND FLOOR, CUNNINGHAM ROAD,
BENGALURU - 560 052

…RESPONDENT

(BY SMT. JYOTI M. MARADI, HCGP)

THIS WP IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI QUASHING THE SHOW CAUSE NOTICE ISSUED UNDER SECTION 73(1) OF KGST ACT DATED 26.11.2024 BEARING NO. CTO/LGSTO-20/T.NO-/2024-2025ISSUED 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 sought for following relief:

"i) Issue a writ of Certiorari quashing the show cause notice issued under section 73(1) of KGST Act dated 26/11/2024 bearing No. CTO/LGSTO-20/T.NO-/2024-2025issued 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 26/11/2024 vide Reference No. ZD291124130528F 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. No: CTO/LGSTO-20/73/DRC-07/2024-25 dated 27.02.2025 passed by the Respondent herein marked and referred as Annexure-A3.

iv) Issue a writ of Certiorari quashing the Summary Order in Form DRC-07 vide Reference No. ZD2902251170730 dated 27.02.2025 passed by the Respondent herein marked and referred as Annexure-A4.

v) Issue a writ of Certiorari quashing the rectification order passed under section 161 of the Act dated 06.08.2025 bearing Reference No. ZD2908250185336 by the Respondent herein marked and referred as Annexure-A5.

vi) Issue a writ of Certiorari quashing the endorsement passed under section 161 of the Act dated 06.08.2025 bearing No. CTO/LGSTO-020/T-625/2025-26 passed by the Respondent herein marked and referred as Annexure-A6.

vii) Issue a writ of mandamus directing the Respondent to refund the sum of Rs.9,24,369/- as erroneously appropriated by the Respondent.

viii) 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;

ix) 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 HCGP for the respondents and perused the material on record.

3. A perusal of material on record will indicate that the respondent issued a notice in Form GST ASMT-10 dated 25.12.2023 and subsequently, a notice in Form GST DRC - 01A dated 14.10.2024 was issued to the petitioner, who did not submit any reply/response to the same. Subsequently, the respondent issued a show-cause notice dated 26.11.2024 under Section 73(1) of the CGST/KGST Act, 2017. Since the petitioner did not submit his reply to the said show-cause notice also, the respondent proceeded to pass the impugned order dated 27.02.2025 under Section 73(9) of the CGST/KGST Act, 2017 confirming the total

demand of Rs.9,24,369/- including the tax, interest and penalty. The petitioner subsequently filed an application for rectification under Section 161 of the Act dated 01.08.2025. The respondent vide order dated 06.08.2025 rejected the application for rectification and directed the petitioner to file an appeal application against the order of the Joint Commissioner of Commercial Taxes (Appeals)-1 against the order passed.

4. Learned counsel for the petitioner submits that neither the notice in Form GST ASMT-10 dated 25.12.2023, notice in Form GST DRC-01A dated 14.10.2024 nor the show-cause notice dated 73(1) under Section 73(1) of the CGST/KGST Act, 2017 were communicated or served upon the petitioner and he was not aware of the said proceedings. So also, physical copies of the aforesaid notices were not communicated to the petitioner and consequently, he was not in a position to submit a reply to the same or contest the proceedings, which culminated in the impugned ex-parte order. It is submitted that the petitioner was not aware of the impugned proceedings till he noticed debits made by HSBC Bank in the petitioner's bank account, pursuant to which, the petitioner filed an application for rectification on 01.08.2025, which was rejected and

directed the petitioner to file an appeal application against the order passed. It is submitted that since the GST Appellate Tribunal has not been constituted as on today, the petitioner has no option but to approach 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 pre-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.

5. Per contra, learned HCGP for the respondents submits that since the pre-intimation notices and show-cause notice were duly communicated electronically to the petitioner by uploading the same on GST portal as well as e-mail, the petitioner cannot complain that he was not aware of impugned proceedings and as such, there is no merit in the petition and the same is liable to be dismissed.

6. Though several contentions have been urged by both sides as regards to the petitioner not having received the

pre- intimation notices and show-cause notice and his inability and omission to contest the proceedings, it is a matter of record and an undisputed fact that the petitioner did not submit his reply to the show-cause notice or pre-intimation notices nor contested the proceedings, which culminated in the impugned *ex-parte* order. Insofar as the application for rectification filed by the petitioner being rejected by the respondent vide order dated 01.08.2024 is concerned, since the same was rejected, the same would not constitute merger to come in the way of this Court exercising its jurisdiction under Articles 226 and 227 of the Constitution of India.

7. 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 27.02.2025 and remitting the matter back to the respondent for reconsideration of the matter afresh in accordance with law to the stage of petitioner submitting reply to the impugned show-cause notice.

8. In the result, I pass the following:

ORDER

(i) The petition is hereby allowed.

(ii) The impugned order dated 27.02.2025 passed by the respondent under Section 73(9) of the CGST/KGST Act, 2017 at Annexure-A3 is hereby set aside.

(iii) The matter is remitted back to the respondent for reconsideration afresh in accordance with law.

(iv) The petitioner is directed to appear before the respondent on 13.11.2025 without awaiting further notice from the respondent.

(v) It is further made clear that in the event petitioner does not appear before respondent on 13.11.2025, the present order shall stand automatically recalled/cancelled and the present petition shall stand revived/ restored without further orders and without reference to the Bench.

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

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

MDS
List No.: 2 Sl No.: 36