HC-KAR

NC: 2025:KHC:41523
WP No. 29600 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF OCTOBER, 2025

BEFORE

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

WRIT PETITION NO. 29600 OF 2025 (T-RES)

BETWEEN:

M/S ICIRI ROOFING
REP. IT PROPRIETRIX
H. P. LATHA,
W/O K. K. KALAYAN KUMAR
PLOT NO. 120-B, KIADB,
GROWTH CENTER
HOLENARASIOPURA ROAD,
NEAR NAYARA PETRLO BANK
HASSAN – 573 201

…PETITIONER

(BY SRI. T K VEDAMURTHY.,ADVOCATE)

AND:

1. THE COMMERCIAL TAX OFFICER
AUDIT-2, SHIVAMOGA – 577 205

2. THE JOINT COMMISSIONER OF COMMERCIAL TALXES
(AUDIT) ADMINISTRATION,
SUVARANA KARNATAKA VANIJAYA THEREGE BHAVANA,
A-BLOCK, 12TH CROSS, 100 FEET ROAD,
NEAR GOPAL GOWDA EXTENSION
SHIVAMOGGA – 577 205

3. THE JOINT COMMISSIONER OFCOMMERCIAL TAXES
(APPEALS)
MALNAD DIVISION
SHIVAMOGGA – 577 205.

4. THE COMMISSIONER OF COMMERCIAL LTAXES
STATE OF KARNATAKA,
VANIJAYA THEREGE KARYALAYLA

KALIDASA MARG ROAD,
BENGALURU – 560 009

...RESPONDENTS

(BY SRI. JYOTHI M. MARADI. HCGP)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING AN IMPUGNED ORDER DATED 13.08.2025 IN T NO.546/2025-26 PASSED UNDER SECTION 107 OF THE GST ACT, PRODUCED AS ANNEXURE-C IN GST/AP-9/25-26 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, petitioner seeks for the following reliefs:

> *"Wherefore, the petitioner therefore, most humbly prays that this Hon'ble court be pleased to issue a Writ, order or direction quashing an impugned order dated: 13.08.2025 in T No.546/2025-26 passed under section 107 of the GST Act, produced as ANNEXURE-C, in GST/AP-9/25-26.*
>
> *It is further respectfully submits that, direct the 3rd Respondent to hear the appeal on merits without reference to the question of the limitation.*
>
> *Pass such other orders as this Hon'ble court may deem fit in the facts and circumstances of the case, in the interest of justice and equity."*

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

3. A perusal of the material on record will indicate that pursuant to the petitioner filing of monthly returns in Form 2A before the Jurisdiction Officer regularly and submitting purchase bills and sales bills, respondent No.2 issued audit notice under Section 65 of the KGST/CGST Act on 15.04.2024. Thereafter, the petitioner produced all the documents to the aforesaid notices and the respondents without considering the said documents, initiated proceedings under Section 73 of the KGST/CGST Act. However, without considering the request of the petitioner for personal hearing and documents produced by the petitioner, respondent No.1 proceeded to pass the impugned order at Annexure-A dated 21.05.2024.

4. Learned counsel for the petitioner submits that the respondents have passed the impugned exparte order without considering the reply/documents filed by the petitioner and also the request made by the petitioner for personal hearing. Pursuant to the impugned exparte order at Annexure-A, the petitioner filed an appeal on 11.04.2025, which was dismissed on the ground of limitation vide impugned order dated 13.08.2025. 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 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 orders, the petitioner would submit a reply to the notice and contest the proceedings.

5. Per contra, learned HCGP for the respondents submits that 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, the counsel for the petitioner submits that due to bonafide reasons, sufficient cause and unavoidable circumstances, the petitioner did not file its reply culminated in the impugned *ex-parte* order. So also, the appeal filed by the petitioner before the respondent No.3 has been dismissed as barred by limitation.

7. Under these circumstances, having regard to the specific assertion on the part of the petitioner that his inability and

omission to submit reply 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 orders dated 13.08.2025 and 21.05.2024 passed by respondent No.3 and respondent No.1, remitting the matter back to the respondent No.1 for reconsideration of the matter afresh in accordance with law from the stage of petitioner submitting reply to the notice dated 15.04.2024.

8. In the result, I pass the following:

ORDER

(i) The petition is hereby allowed on payment of cost of Rs.10,000/- to the Karnataka High Court Legal Services Authority, Bengaluru, within a period of six weeks from the date of receipt of a copy of this order.

(ii) The impugned orders dated 21.05.2024 passed by the respondent No.1 at Annexure-A as well as impugned order dated 13.08.2025 passed by respondent No.3 at Annexure-C are hereby set aside.

(iii) The matter is remitted back to respondent No.1 for reconsideration afresh in accordance with law from the stage of petitioner submitting its reply to the notice dated 15.04.2024.

(iv) The petitioner is directed to appear before the respondent No.1 on 20.11.2025 without awaiting further notice from respondent No.1.

(v) The liberty is reserved in favour of the petitioner to submit replies, documents etc., which shall be considered by respondent No.1, 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 respondent No.1 on 20.11.2025 as stated *supra*, the present order shall stand automatically recalled without further orders.

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

BMC
List No.: 2 Sl No.: 16