HC-KAR

NC: 2025:KHC:52223
WP No. 35873 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF DECEMBER, 2025

BEFORE

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

WRIT PETITION NO. 35873 OF 2025 (T-RES)

BETWEEN:

M/S S M AGENCIES
REPRESNTED BY ITS PROPRIETOR
SHRI. DEVIHALLY THIMMEGOWDA
SON OF SHRI. LATE THIMMEGOWDA
AGED ABOUT 50 YEARS,
HAVING OFFICE AT 2ND CROSS,
SAHYADRI THEATRE, NEAR HEMAVATHI
HOSPITAL, HASSAN- 573201
GSTIN 29AKPPM8527M1Z6

...PETITIONER

(BY SRI. PRANAY SHARMA Y., ADVOCATE)

AND:

1. THE COMMERCIAL TAX OFFICER
LGSTO-240, HASSAN
1ST FLOOR, SWAMY ARCADE
OPPOSITE HDFC BANK,
KUVEMPUNAGAR
HASSAN 573201

2. ASSISTANT COMMISSIONER
OF COMMERCIAL
LGSTO-240, HASSAN
1ST FLOOR, SWAMY ARCADE
OPPOSITE HDFC BANK,
KUVEMPUNAGAR
HASSAN - 573201

...RESPONDENTS

(BY SRI. K.HEMA KUMAR, AGA)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI OR DIRECTION IN THE NATURE OF A WRIT OF CERTIORARI QUASHING THE ORDER IN ORIGINAL PASSED UNDER SECTION 73(9) OF THE CGST ACT AND CORRESPONDING PROVISIONS OF THE KGST ACT, 2017 BY THE RESPONDENT NO.1 VIDE OIO NO. CTO/LGSTO-240/HSN/73/R3B-2A/2024-25 DATED 06.02.2025 FOR THE TAX PERIOD 2020-21. COPY OF THE ORDER IN ORIGINAL DATED 06.02.2025 IS ENCLOSED AND MARKED AS ANNEXURE-A1., AND ETC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

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

ORAL ORDER

1. In this writ petition, the petitioner seeks the following reliefs:

> *"a) Issue a writ of Certioral or direction in the nature of a writ of certiorari quashing the Order in Original passed under section 73(9) of the CGST Act and corresponding provisions of the KGST Act, 2017 by the Respondent No.1 vide O1O No. CTO/LGSTO-240/HSN/73/R3B-2A/2024-25 dated 06.02.2025 for the tax period 2020-21. Copy of the Order In original dated 06.02.2025 is enclosed and marked as Annexure - A1.*
>
> *b) Issue a writ of Certiorari or direction in the nature of a writ of certiorari quashing Summary of the Order in Original passed under section 73 of the Act, 2017 by the Respondent No.1 vide Reference Number ZD290225029482E dated 07.02.2025. Copy of the Summary of the Order In original in DRC-07 dated*

07.02.2025 is enclosed and marked as Annexure - A2.

c) Issue a writ of Certiorari or direction in the nature of a writ of certiorari quashing Show cause notice issued by the Respondent No.1 dated 20.11.2024 bearing Office No. CTO/LGSTO-240/HSN/DRC-01/DRC-1/2A-3B/23-24 issued under section 73(1) for the tax periods 2020-21 of the Act. Copy of the show cause notice dated 20.11.2024 of the KGST Act, 2017 is enclosed and marked as Annexure-A3.

d) Issue a writ of Certiorari or direction in the nature of a writ of certiorari quashing the Summary of the Order in Form GST DRC-01 dated 20.11.2024 issued by the Respondent No.1 bearing Reference No. ZD291124094205E. Copy of the Summary of the Order in Form GST DRC-01 dated 20.11.2024 is enclosed and marked as Annexure - A4.

e) Issue a writ of Certiorari or direction in the nature of a writ of certiorari quashing the DRC-01A issued by the Respondent No.1 under section 73(5) of Act for the tax period 2020-21 dated 19.10.2024 vide Office No. ACCT/LGSTO-240/HSN/DRC-01A/2A-3B/23-24. Copy of the DRC-01A dated 01.09.2023 issued under section 73(5) of the KGST Act, 2017 dated 01.09.2023 is enclosed and marked as Annexure - A5.

f) Issue a writ of Certiorari or direction in the nature of a writ of certiorari quashing DRC-01A issued by the Respondent No.1 under section 73(5) of Act for the tax period 2020-21 dated 22.10.2024 vide Reference No. ZD291024054535F. Copy of the Copy of theDRC-01A dated 22.10.2024 Issued under section 73(5) is enclosed and marked as Annexure - A6.

g) Issue a writ of Certiorari or direction in the nature of a writ of certiorari quashing the notice issued *under section 79(1)(c) by the Respondent No.1 in GST FORM DRC-13 dated 28.10.2025. Copy of the Notice issued under section 79(1)(c) of the Act is enclosed and marked as Annexure - A7.*

h) Direct the Respondents to unblocked the ITC Blocked in the Electronic Ledger Account of the petitioner.

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

2. Heard the learned counsel for the petitioner and the learned Additional Government Advocate for respondent and perused the material on record.

3. A perusal of the material on record will indicate that the petitioner filed Form GSTR3B for the period of 01.04.2020 to 31.03.2021. On 11.06.2024, the respondent issued Form ASMT-10 notice, calling for explanation as to the difference/discrepancy between Form GSTR3B and Form GSTR2A submitted by the petitioner. Pursuant to the same, the respondent issued show cause notice dated 20.11.2024 to the petitioner, who did not submit any reply to the same and consequently, the respondent proceeded to pass the impugned orders

under Section 73(9) of KGST Act, 2017 at Annexures - A1 and A2 dated 06.02.2025 and 07.02.2025 which are assailed in the present petition.

4. Learned counsel for the petitioner submits that due to *bona fide* reasons and unavoidable circumstances and sufficient cause, the petitioner could not submit his reply to the show cause notice and the impugned *ex-parte* orders deserve to be quashed and the matter be remitted back to the respondent for reconsideration of the matter afresh in accordance with law by providing an opportunity to the petitioner to submit a reply to the show cause notice and thereafter to pass appropriate orders.

5. per contra, learned Additional Government Advocate for respondent would support the impugned orders and submit that there is no merit in the petition and the same is liable to be dismissed, especially when the petitioner did not exercise his due diligence in participating in the impugned proceedings.

6. A perusal of the material on record including the impugned orders will indicate that it is an undisputed fact that the petitioner did not respond/reply to the show cause notice and the impugned *ex-parte* orders have been passed without hearing the petitioner. Under these circumstances, in view of the specific assertion on the part of the petitioner that his inability and omission to submit the reply to the show cause notice and participate in the proceedings was due to *bona fide* reasons, unavoidable circumstances and sufficient cause, by adopting a justice oriented approach and in order to provide one more opportunity to the petitioner, I deem it just and appropriate to set aside the impugned orders and remit the matter back to the respondent for reconsideration afresh in accordance with law by issuing certain directions.

7. In the result, I pass the following:

ORDER

i) The Writ Petition is ***allowed***;

ii) The impugned orders / notices passed / issued by the respondents at Annexures - A1, A2 and A7 dated 06.02.2025, 07.02.2025 and 28.10.2025 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 reply to the show cause notice dated 20.11.2024.

iv) The petitioner shall appear before respondent No.1 on 19.01.2026 on which date, he shall submit his reply to the show cause notice along with relevant documents.

v) Upon the petitioner submitting a reply along with relevant documents to the show cause notice, on 19.01.2026, the respondents shall afford a reasonable opportunity to the petitioner and hear him and proceed further in accordance with law.

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

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List No.: 2 Sl No.: 41