HC-KAR

NC: 2025:KHC:54130
WP No. 36896 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF DECEMBER, 2025

BEFORE

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

WRIT PETITION NO. 36896 OF 2025 (T-RES)

BETWEEN:

SRI PERUMAL TIRUPATHI
AGED ABOUT 54 YEARS,
O, HAIHOLE-POST,
AGED ABOUT 54 YEARS,
BHARATHI NAGAR,
SHIVAMOGGA-577202,
GSTIN: 29ADSPT4461B1Z5

…PETITIONER

(BY SRI. SIDDARAJU M., ADVOCATE AND
SRI. S.B.HALLI ADVOCATE)

Digitally signed by AASEEFA PARVEEN
Location: HIGH COURT OF KARNATAKA

AND:

1. THE JOINT COMMISSIONER,
   OF COMMERCIAL TAXES, (APPEAL)
   MALAND DIVISION,
   SHIVAMOGGA-577202.

2. THE ASSISTANT COMMISSIONER
   OF COMMERCIAL TAXES
   (AUDIT-2), SHIVAMOGGA-577202.

…RESPONDENTS

(BY SMT. JYOTI M. MARADI, HCGP)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED ORDER PASSED BY THE RESPONDENT NO-2 UNDER SECTION 73(9) OF KARNATAKA GOODS AND SERVICES TAX ACT, 2017/ CENTRAL GOODS AND SERVICES TAX ACT, 2017 VIDE REFERENCE NO. ZD2908040912434, DATED 26/08/2024, VIDE ANNEXURE-A, 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:

"a) Quash the impugned order passed by the respondent No.2 under Section 73(9) of Karnataka Goods and services Tax Act, 2017/Central Goods and Services Tax Act, 2017; vide reference No.ZD2908040912434, dated 26/08/2024, vide Annexure-A, and also,

b) To quash the impugned order passed by the respondent No.1 under Section 107 of Karnataka Goods and Services Tax Act, 2017/Central Goods and services Tax Act, 2017, vide reference No.ZD290825116963W dated 29.08.2025, vide Annexure-B to this writ petition, and

c) Cost and other reliefs deems fit to grant under the circumstances of the case, 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 second respondent issued a show-cause notice dated 18.04.2024 under Section 73 of the CGST/KGST Act, 2017. Since the petitioner did not submit his reply to the said show-cause notice, the second respondent proceeded to pass the impugned order dated 26.08.2025 under Section 73 of the KGST Act, 2017 confirming the total demand of Rs.47,97,416/- including the tax, interest and penalty.

4. Learned counsel for the petitioner submits that due to bonafide reasons, unavoidable circumstances and sufficient cause, the petitioner could not submit replies/ documents to the show-cause notice dated 18.04.2024

and resultantly could not contest the proceedings. Pursuant to the aforesaid order the petitioner filed an appeal on 19.04.2025 which was dismissed as barred by limitation vide impugned order dated 29.08.2025. 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 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 there is no merit in the petition and the same is liable to be dismissed.

6. 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 orders dated 26.08.2024 and 29.08.2025 and remitting the matter back to the second respondent for reconsideration of the matter afresh in accordance with law from the stage of petitioner submitting reply to the impugned show-cause notice dated 18.04.2024, subject to the petitioner paying a costs of Rs.15,000/- to the High Court Legal Services Authority.

7. In the result, I pass the following:

ORDER

(i) The petition is hereby ***allowed***.

(ii) The impugned order dated 26.08.2024 passed by the second respondent under Section 73 of

the KGST/CGST Act, 2017 at Annexure – D as well as impugned order dated 29.08.2025 passed by the first respondent under Section 107 of the SGST/CGST Act, 2017 are hereby set aside, subject to the petitioner paying a costs of Rs.15,000/- to the High Court Legal Services Authority

(iii) The matter is remitted back to the second respondent for reconsideration afresh in accordance with law from the stage of petitioner submitting its reply to the notice dated 18.04.2024.

(iv) The petitioner is directed to appear before the second respondent on 02.02.2026 without awaiting further notice from the second 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 second respondent on 02.02.2026 as stated supra, present order shall stand automatically recalled without further orders.

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

NS
CT:TSM
List No.: 2 Sl No.: 11