IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF MARCH, 2025

BEFORE

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

WRIT PETITION NO.8126 OF 2025 (T-RES)

BETWEEN:

M/S. ADR CONTRACTORS
HAVING OFFICE AT
NO.104, 80 FEET RING ROAD,
MARIYAPPANAPALYA,
J.B. POST,
BENGALURU-560056.
GST NO.29AKYPA1100D1ZL
REPRESENTED BY ITS PROPRIETOR
MR. RAMAIAH AJAY
S/O LATE RAMAIAH
AGED ABOUT 38 YEARS
R/AT NO. 104, 80 FEET RING ROAD,
MARIYAPPANAPALYA,
J.B. POST,
BENGALURU – 560 056.

…PETITIONER

(BY SRI. JEEVAN J. NEERALGI, ADVOCATE)

AND:

OFFICE OF THE DEPUTY COMMISSIONER OF
COMMERCIAL TAXES
AUDIT-2.6, DGSTO-2, NO.642,
KENCHENAHALLI MAIN ROAD,
NEAR GOPALAN ARCADE MALL,
R.R. NAGAR,
BENGALURU – 560 098.

…RESPONDENT

(BY SRI. K. HEMA KUMAR, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO PRAYING TO

DIRECT UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA CALLING FOR THE RECORDS OF THE PETITIONER'S CASE AND AFTER EXAMINING THE LEGALITY AND VALIDITY THEREOF BE PLEASED TO QUASH AND SET ASIDE THE IMPUGNED ORDER UNDER SECTION 73(9) OF THE ACT DATED 09.11.2023, (ANNEXURE-G) AS WELL AS THE IMPUGNED SHOW CAUSE NOTICE DATED 18.04.2023 IN FORM-GST-DRC-01 UNDER SECTION 73(1) OF THE ACT, (ANNEXURE-F) AS WELL AS THE IMPUGNED INTIMATION UNDER SECTION 73(5) OF THE ACT IN FORM-DRC-01A DATED 22.12.2022 (ANNEXURE-E) PASSED BY THE RESPONDENT FOR THE F.Y. 2017-18; 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

In this petition, petitioner seeks for the following reliefs:

i. Issue a Writ of Certiorari or a writ in the nature of Certiorari or any other appropriate writ, order or direction under Article 226 of the Constitution of India calling for the records of the Petitioner's case and after examining the legality and validity thereof be pleased to quash and set aside the impugned Order under section 73(9) of the Act dated: 09.11.2023, (ANNEXURE-G) as well as the impugned show cause notice dated: 18.04.2023 in Form-GST-DRC-01 under section 73(1) of the Act, (ANNEXURE-F) as well as the impugned intimation under section 73(5) of the Act in Form-DRC-01A dated: 22.12.2022

(ANNEXURE-E) passed by the Respondent for the F.Y. 2017-18, and

ii. *Grant the interim relief in terms of prayer (i) above, and*

iii. *Issue such other order, writ or direction as this Hon'ble Court deems fit; and*

iv. *Direct the Respondents to pay the costs of this Writ Petition.*

2. Learned counsel for the petitioner submits that apart from the fact that due to due to bonafide reasons, unavoidable circumstances and sufficient cause, the petitioner could not submit reply to the Show Cause Notice nor contest the proceedings. Having regard to the GST Amnesty Scheme envisaged under Section 128(A) of the KGST/CGST Act (hereinafter referred to as 'the Act' for short), which expires on 31.03.2025, the petitioner intends to avail the benefits of the said GST Amnesty Scheme and consequently, in order to enable the petitioner to do so, the matter may be remanded back for reconsideration afresh in accordance with law by passing fresh orders under Section 73(9) of the Act.

3. Per contra, learned AGA for the respondents submits that in the event petitioner were to undertake to avail the benefit of

GST Amnesty Scheme by setting aside the impugned order, the respondent does not have any objection for setting aside the impugned order and reconsider the matter afresh in accordance with law.

4. Though several contentions have been urged by both sides in relation to specific submission made on behalf of learned counsel for the petitioner that the impugned order was passed without providing an opportunity to the petitioner culminating in the impugned cryptic order coupled with the specific submission that the impugned order may be set aside and matter may be remitted back to respondent for reconsideration afresh with a direction to file an application to avail GST Amnesty Scheme.

5. In the result, I pass the following:

ORDER

i) The petition is hereby allowed.

ii) The impugned order dated 09.11.2023 (Annexure-G), Show Cause Notice dated 18.04.2023 (Annexure-F), impugned intimation

dated 22.12.2022 (Annexure-E) are hereby set aside.

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

iv) Petitioner shall appear before respondent on 24.03.2025 without awaiting further notice.

v) Respondent shall treat the proceedings as one under Section 73(9) of the Act and pass appropriate orders on or before 28.03.2025.

vi) Immediately upon the respondent passing appropriate orders against the petitioner under Section 73(9) of the Act as stated (supra), the petitioner would be entitled to file application/requisition seeking the benefit of GST Amnesty Scheme under Section 128A of the Act, which shall be considered by respondent who shall pass appropriate orders/take appropriate decision immediately thereafter.

vii) It is made clear that this order is passed in the peculiar / special facts and circumstances of the instant case and that this order shall not be treated as a precedent nor shall the same have any precedential value for any purpose whatsoever.

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

MDS
List No.: 1 Sl No.: 79