

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF MAY, 2026

PRESENT

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

WRIT APPEAL NO. 1385 OF 2026 (T-RES)

C/W

WRIT APPEAL NO. 1388 OF 2026 (T-RES)

IN WA No. 1385/2026

BETWEEN:

SREEKRISHNA TRADERS
A SOLE PROPRIETORSHIP CONCERN
GROUND FLOOR, 92/1,
MOOKUPPE CIRCLE, MAIN ROAD,
THAGARTHI SUB POST OFFICE,
THYGARTHI, SHIVAMOGGA-577 431

REPRESENTED THROUGH ITS PROPRIETOR
MR. MANJUNATH NAYAK,
SON OF MOHAN DAS NAYAK
AGED ABOUT 55 YEARS,
R/A: SHEDIVAKU HOUSE KOIPDAY,
KASARGOD KERALA-671 321

...APPELLANT

(BY SRI. D.R. RAVISHANKAR, SENIOR COUNSEL FOR
SRI. SARAVANA .S, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THROUGH ITS PRINCIPAL SECRETARY,
FINANCE DEPARTMENT, GOVT OF KARNATKA
VIDHANA SOUDHA,
DR. B.R.AMBEDKAR VEEDHI,
BANGALORE 560 001



2. THE COMMISSIONER OF COMMERCIAL TAXES
KARNATAKA STATE GOODS AND SERVICES TAX,
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD,
GANDHI NAGAR, BANGALORE-560009
3. ASSISTANT COMMISSIONS OF COMMERCIAL TAXES
ENFORCEMENT, COMMERCIAL TAX BUILDING
NEAR GURUBHAVANA, RAJENDRANAGAR
HAVERI-581 110

...RESPONDENTS

(BY SRI.ADITYA VIKRAM BHAT, AGA)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO ALLOW THIS WRIT APPEAL, SET ASIDE THE IMPUGNED ORDER DATED 28/04/2026 PASSED IN IA NO.1/26 ARISING OUT OF WRIT PETITION NO.34329/2025. CONSEQUENTLY ALLOW IA NO.1/26 THEREBY MODIFYING THE INTERIM ORDER DATED 05/12/2025 PASSED IN WRIT PETITION NO.34329/2025 AND DIRECT THE RESPONDENTS TO RELEASE THE SUBJECT GOODS AND VEHICLE IN FAVOUR OF THE APPELLANT ON THE SAME TERMS AND CONDITIONS AS WERE IMPOSED BY THE LEARNED SINGLE JUDGE IN WP NOS. 37627/2025, 37643/2025, 37805/2025 AND 37841/2025 BY ORDER DATED 19/12/2025, NAMELY DEPOSIT 200 PERCENT OF THE TAX PAYABLE ON THE SUBJECT GOODS WITH THE CONCERNED RESPONDENTS AND EXECUTION OF AN INDEMNITY BOND IN FAVOUR OF THE CONCERNED RESPONDENTS AND ETC.

IN WA NO. 1388/2026

BETWEEN:

SREEKRISHNA TRADERS
A PROPRIETORSHIP CONCERN REPRESENTED
BY ITS PROPRIETOR MR.MANJUNATH NAYAK
GROUND FLOOR, 92/1, MOOKUPPE CIRCLE,
MAIN ROAD, THAGARTHI SUB POST OFFICE,
THYGARTHI, SHIVAMOGGA-577 431.

...APPELLANT

(BY SRI. D.R. RAVISHANKAR, SENIOR COUNSEL FOR
SRI. SARAVANA S., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THROUGH ITS PRINCIPAL SECRETARY,
FINANCE DEPARTMENT,
VIDHANA SOUDHA,
DR. B.R.AMBEDKAR VEEDHI,
BANGALORE-560 001.
2. THE COMMISSIONER OF COMMERCIAL TAXES,
KARNATAKA STATE GOODS AND SERVICES TAX,
VANIJYA THERIGE KARYALAYA,
KALIDASA ROAD, GANDHI NAGAR,
BANGALORE-560 009.
3. THE JOINT COMMISSIONER OF COMMERCIAL TAXES
(ENFORCEMENT),
2ND STAGE, 6TH CROSS,
RAGHAVENDRA COLONY,
ANANTHAPURA ROAD,
BALLARI-583 101.
4. THE COMMERCIAL TAX OFFICER
(ENFORCEMENT)-03,
DAVANAGERE, VANIJYA THERIGE BHAVANA
A BLOCK, DEVARAJ ARAS LAYOUT,
DAVANGERE-577 006

...RESPONDENTS

(BY SRI. ADITYA VIKRAM BHAT, AGA)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO ALLOW THIS WRIT APPEAL, SET ASIDE THE IMPUGNED ORDER DATED 08/04/2026 PASSED IN IA NO.1/26 ARISING OUT OF WRIT PETITION NO.33220/2025 CONSEQUENTLY ALLOW IA NO.1/26 THERE BY MODIFYING THE INTERIM ORDER DATED 13/11/2025 PASSED IN WP NO.33220/2025 AND DIRECT THE RESPONDENTS TO RELEASE THE SUBJECT GOODS AND VEHICLE IN FAVOUR OF THE APPELLANT ON THE SAME TERMS AND CONDITIONS AS WERE IMPOSED BY THE LEARNED SINGLE JUDGE IN WP NOS. 37627/2025, 37643/2025, 37805/2025 AND 37841/2025 BY ORDER DATED 19/12/2025, NAMELY DEPOSIT OF 200 PERCENT OF THE TAX PAYABLE ON THE SUBJECT GOODS WITH THE CONCERNED RESPONDENTS AND EXECUTION OF AN

INDEMNITY BOND IN FAVOUR OF THE CONCERNED RESPONDENTS AND ETC.

THESE APPEALS HAVING BEEN RESERVED FOR JUDGMENT ON 05.06.2026 COMING ON FOR PRONOUNCEMENT THIS DAY, **RAJESH RAI K, J.**, DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM
and
HON'BLE MR. JUSTICE RAJESH RAI K

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE RAJESH RAI K)

Since common questions of law and facts are involved in W.A.No.1385/2026 and W.A.No.1388/2026, they are clubbed, heard together and are disposed of by this common judgment.

2. W.A.No.1385/2026 and W.A.No.1388/2026 are directed against the orders dated 28.04.2026 and 08.04.2026 respectively passed on I.A.1/2026 by the learned Single Judge in WP.No.34329/2025 (T-RES) and WP.No.33220/2025 (T-RES) respectively, whereby the learned Single Judge dismissed the I.A.No.1/2026 as withdrawn reserving liberty in favour of the petitioners therein to file a writ appeal. I.A.No.1/2026 is filed in both the writ petitions seeking modification of the interim orders dated 05.12.2025 and 13.11.2025 passed in W.P.No.34329/2025 and W.P.No.33220/2025 respectively.

3. The interim orders dated 05.12.2025 and 13.11.2025 reads as follows:

"In this petition, the petitioner seeks for the following interim relief:

"Pending disposal of the above writ petition, it is prayed that this Hon'ble Court may be pleased to direct the Respondents to release the goods and vehicle bearing No.HR38 AE 9809 and stay the operation of the Confiscation Order No.ACCT/ENF/HVR/VIG-15/2025-26 in Form GST MOV-11 dated 09.10.2025 (Annexure-B) and Summary Order No.ZD2910250237489 in GST DRC-07 in dated 09.10.2025 (Annexure-C) passed by the Respondent No.3."

Learned High Court Government Pleader for the respondents submits that the subject goods and vehicles may be provisionally released by imposing suitable terms and conditions in terms of the order dated 11.11.2024 passed by the Hon'ble Division Bench in W.A.No.1599/2024 in the case of The Assistant Commissioner of Commercial Taxes And Another Vs. Trillion Lead Factory Private Limited.

Learned Counsel for the petitioner submits that the petitioner is ready to abide by the terms and conditions as imposed by the Hon'ble Division Bench in the aforementioned judgment.

In view of the aforesaid facts and circumstances, and joint submissions made by both sides, pending disposal of the present petition, I deem it just and appropriate to direct the respondents to release the subject goods and vehicles in favour of the petitioner subject to the petitioner furnishing 25% of the demand raised in GST DRC-07 dated 09.10.2025 vide Annexure 'C' and furnishing Bank Guarantee to the remaining extent of 75%.

Liberty is reserved in favour of the respondents to seek vacation/modification of this order."

4. Heard Sri D.R.Ravishankar, learned Senior Counsel appearing for the appellant and the learned Additional Government Advocate for the respondents.

5. It is the contention of the learned Senior Counsel appearing for the appellant that subsequent to passing of the aforesaid interim orders dated 05.12.2025 and 13.11.2025, in a batch of similar matters involving identical questions of law and fact i.e., wherein the arecanut traders were subjected to identical interception, detention and confiscation proceedings by the very same respondents in Chitradurga District, in WP.Nos.37627/2025, 37643/2025, 37805/2025 and 37841/2025, this Court has passed orders staying the impugned detention orders and also directed release of the

goods and conveyances on the terms that the petitioners shall deposit 200% of the tax payable on the subject goods with the concerned respondents and the petitioners shall execute indemnity bonds in favour of the concerned respondents at the time of obtaining release of subject goods and conveyances.

6. According to the learned Senior Counsel, the facts and circumstances of the instant cases are identical to those in the batch of writ petitions referred to above. He further contends that the prescribed timeline for conducting and concluding inspection/verification proceedings is a maximum period of three days, as stipulated under Rule 138C of the CGST/KGST Rules, and that the respondents could not unilaterally and repeatedly extend the said period to about 45 days, thereby defeating the valuable statutory right of the petitioners to seek release of the goods by undertaking to pay 200% of the tax payable in terms of Section 129(1)(a) of the CGST/KGST Act. Consequently, the detention and confiscation orders passed in both cases are without jurisdiction, being barred by limitation.

7. Learned Senior Counsel also contended that the learned Single Judge while passing the order in identical matter

has relied on the judgment of the Division Bench of the Gujarat High Court in the case of **M/S.PANCHHI TRADERS VS. STATE OF GUJARAT - 2025 (12) TMI 941 (GUJ)**. As such, by relying on the judgment of the Hon'ble Apex Court in the case of **VISHNU TRADERS VS. STATE OF HARYANA & OTHERS - 1995 SUPP (1) SCC 461**, he submits that in the matter of interlocutory order, there is need of consistency of approach and uniformity in the exercise of judicial discretion respecting similar causes and the desirability to eliminate occasions for grievances of discriminatory treatment requires that all similar matters should receive similar treatment except where factual differences require a different treatment so that there is assurance of consistency, uniformity, predictability and certainty of judicial approach. With these submissions, he prays to allow I.A.1/2026 filed in the instant writ petitions by modifying the impugned interim order passed by the learned Single Judge in terms of the order passed by this Court in identical matters i.e., WP.Nos.37627/2025, 37643/2025, 37805/2025 and 37841/2025.

8. Refuting the above submissions, the learned AGA submits that the arguments of the learned Senior Counsel in respect of interim order passed in identical matters by this

Court is totally misconceived inasmuch as the identical matter refers to the challenge of notices for confiscation of goods and conveyance under Section 129 (3) of the Act, which enables the proper officer to issue a notice specifying the penalty payable and to pass an order for payment of such penalty, whereas in the instant writ petitions, the petitioners have challenged the order of confiscation of goods or conveyance and to levy penalty under Section 130 of the CGST/KGST Act. In such circumstances, in terms of sub-section (5) of Section 130 of the CGST/KGST Act, the title to the goods and conveyance shall vest in the Government. As such, the imposition of penalty and conveyance shall be governed by the provisions of Section 130 of the CGST/KGST Act and the release of the goods to the owner would only be subject to the condition by imposing the fine leviable which shall not exceed the market value of the goods confiscated less tax chargeable thereupon. In that view of the matter, it is contended that the learned Single Judge has rightly passed the impugned interim orders dated 05.12.2025 and 13.11.2025 passed in W.P.No.34329/2025 and W.P.No.33220/2025 respectively and has rightly dismissed I.A.No.1/2026 filed in both the petitions

seeking modification of said interim orders. Accordingly, he prays to dismiss the appeal.

9. We have given our anxious consideration to the contentions urged by the learned counsel for the respective parties.

10. On perusal of the impugned interim orders passed by the learned Single Judge, the petitioner has sought the following interim order in both the writ petitions:

In WP.No.34329/2025 :

"Pending disposal of the above writ petition, it is prayed that this Hon'ble Court may be pleased to direct the Respondents to release the goods and vehicle bearing No.HR38 AE 9809 and stay the operation of the Confiscation Order No.ACCT/ENF/HVR/VIG-15/2025-26 in Form GST MOV-11 dated 09.10.2025 (Annexure-B) and Summary Order No.ZD2910250237489 in GST DRC-07 in dated 09.10.2025 (Annexure-C) passed by the Respondent No.3."

In WP.No.33220/2025 :

"Pending disposal of the above writ petition, it is prayed that this Hon'ble Court may be pleased to direct the Respondents to release the goods and vehicle and stay the operation of the Confiscation Order No.CTO/ENF-03/DVG/VIG-

05/2025-26 in Form GST MOV-11 dated 10.10.2025 (Annexure-B) and Impugned Summary Order No.ZD291025029724D in GST DRC-07 in dated 10.10.2025 (Annexure-C) passed by the Respondent No.4."

11. On careful perusal of the above interim prayer, it is clear that the order challenged by the petitioners are the order of confiscation under Section 130 of the Act, whereas the order passed in identical matters in WP.Nos.37627/2025, 37643/2025, 37805/2025 and 37841/2025 by the learned Single Judge are in respect of the order of detention and as well as notice for confiscation of goods and conveyance which comes within the ambit of Section 129 of the Act. In such circumstances, in similar circumstances, the Co-ordinate Bench of this Court in W.A.No.1232/2025 c/w. W.A.No.1212/2025 & other matters, held in paragraph 7.1 to 7.6 as under:

7.1 The only question that arises for consideration in these writ appeals is whether, after issuance of an order under Section 130 of the Act, thereby vesting title to the goods and the conveyance in the State Government, it is permissible to challenge only the order passed under Section 129 of the Act in a writ petition, and whether the learned Single Judge was justified in directing release of the detained and confiscated goods subject to payment of a specified percentage of the value of the goods.

7.2 Our answer to the above issues is in the 'negative' for the reasons below.

7.3 Section 129 of the Act empowers the concerned authorities to detain, seize and release goods and conveyances in transit. The provision enables the proper officer to issue a payment of such penalty. Section 129 also contemplates affording an opportunity to the assessee before passing any order. Sub-section (6) provides for release of the conveyance upon payment by the transporter of the penalty quantified under sub-section (3). Sub-section (5) stipulates that upon payment of the amounts specified under sub-section (3), the proceedings in respect of such detention or seizure shall stand concluded.

7.4 Section 130, on the other hand, empowers the proper officer to order confiscation of goods or conveyance and to levy penalty. Once an order of confiscation is passed under Section 130(1), in terms of sub-section (5), the title to the goods and the conveyance shall vest in the Government.

7.5 On a conjoint reading of Sections 129 and 130 of the Act, it is evident that once an order under Section 130 is passed and the title to the goods and the conveyance vests in the Government, the mechanism contemplated under Section 129 ceases to be available. Thereafter, the adjudication with regard to confiscation, valuation, and determination of tax, penalty, interest and fine is governed exclusively by the provisions of Section 130 of the Act.

7.6 In that view of the matter, as on the date of the order passed by the learned Single Judge, an order under Section 130 of the Act had already been made and the goods had vested in the Government. In such circumstances, the learned Single Judge was not justified in entertaining the writ petition challenging the order passed under Section 129 of the Act and in directing release of the goods upon payment of a specified percentage of the amount.

12. On careful reading of the provisions in Sections 129 and 130 of the CGST/KGST Act and the law laid down by the Co-ordinate Bench of this Court in the aforesaid writ appeal, we are of the considered view that the impugned interim orders dated 05.12.2025 and 13.11.2025 passed by the learned Single Judge by imposing the conditions is in accordance with law and do not require any modification as sought for in I.A.No.1/2026. Accordingly, the writ appeals fail and are liable to be dismissed.

In the result, both the appeals are ***dismissed***.

SD/-
(SACHIN SHANKAR MAGADUM)
JUDGE

SD/-
(RAJESH RAI K)
JUDGE

PKS