



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT APPEAL NO. 1076 OF 2023 (T-RES)

BETWEEN:

1. THE COMMISSIONER OF CENTRAL TAX
MYSORE AUDIT COMMISSIONERATE
JSS TOWERS
100 FEET RING ROAD
BANASHANKARI 3RD STAGE
BANGALORE-560085
2. PRINCIPAL COMMISSIONER OF
CENTRAL GST
WEST GST COMMISSIONERATE
BMTc BUILDING
BANASHANKARI II STAGE
BENGALURU-560070
3. THE ASSISTANT COMMISSIONER OF
CENTRAL TAX
WEST DIVISION-2
GST COMMISSIONERATE





BMTC BUILDING
BANASHANKARI II STAGE
BENGALURU-560070

4. THE SUPERINTENDENT OF
CENTRAL TAX
RANGE 4, WEST DIVISION-2
GST COMMISSIONERATE
BMTC BUILDING
BANASHANKARI II STAGE
BENGALURU-560070

...APPELLANTS

(BY SRI NEERALGI JEEVANBABU JAGADISH, ADVOCATE)

AND:

1. M/S SADGURU INFRATECH PVT LTD
127, 3RD FLOOR
DR. RAJKUMAR ROAD
OPPOSITE ICICI BANK ATM
1ST BLOCK, RAJAJINAGAR
BENGALURU-560010

...RESPONDENT

(BY SRI NAVEEN G.S., ADVOCATE)

THIS WRIT APPEAL FILED UNDER SECTION 4 OF
THE KARNATAKA HIGH COURT ACT PRAYING TO SET
ASIDE THE JUDGEMENT DATED 11.04.2023 PASSED BY



THE LEARNED SINGLE JUDGE OF THIS HON'BLE COURT
IN W.P No. 10163/2020.

THIS APPEAL, COMING ON FOR ORDERS, THIS
DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellants have filed the present appeal impugning the judgment dated 11.04.2023 passed by the learned Single Judge of this Court in W.P.No.10163/2020 [**impugned order**]. The respondent [**writ petitioner**] had filed the said writ petition, inter alia, praying as under:

“(a) Declare that demand of interest on the sub-contractor is illegal under Section 50(1) of the GST Act alleging that there is delay in paying tax and filing returns for 2017-18, 2018-19 and 2019-20 when the W.P.No.26523/2019 filed by the contractor is pending for consideration before this Hon'ble Court and interim order of stay is still in force; and consequently

(b) Issue a writ in the nature of Certiorari or such other appropriate writ or order to quash the notice dated 13.02.2020 in form GST ASMT-10 at Annexure-E; and



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(c) Issue a writ in the nature of Certiorari or such other appropriate writ or order to quash the notice dated 19.02.2020 at Annexure-F; and

(d) Issue a writ in the nature of Certiorari or such other appropriate writ or order to quash the notice in Form GST DRC-13 under Section 79(1)(c) dated 18.03.2020 at Annexure-H; and

(e) Pass such other orders as may be deemed appropriate under the circumstances of the case, in the ends of justice.”

2. The writ petitioner states that it was registered under the Karnataka Value Added Tax Act, 2003 (KVAT) and had obtained GST registration (bearing No. 29AANCS9649H1ZG) after the rollout of the Goods and Services Tax [**GST**] regime with effect from 01.07.2017.

3. The writ petitioner is a sub-contractor. The tender for the survey, investigation, design, supply, installation, testing and commissioning of a lift irrigation system and the construction of the canal distribution system, including aqueducts, for the Basaveshwar (Kempwad) Lift Irrigation Scheme in Athani Taluk, Belagavi District, was floated by the Karnataka Neeravari Nigam Limited [**KNNL**] and was awarded to M/s Gayatri-RNS-SIPL JV [**the main contractor**], a joint venture of which the writ petitioner is



a constituent. The agreement dated 06.03.2017 was entered into between the main contractor and the KNNL prior to the rollout of the GST regime. The writ petitioner, in turn, executed the works as a sub-contractor under a works contract dated 24.06.2017 entered into with the main contractor [**the Employer**], at the Schedule of Rates [**SR**] then prevailing under the VAT regime.

4. The writ petitioner claimed that since the rates quoted were on the basis of the Schedule of Rates prevailing prior to 01.07.2017, the same did not include the element of GST – Central GST, SGST and IGST – payable under the relevant GST Acts. With the Goods and Services Tax Acts coming into force on 01.07.2017, the works contract came to be subjected to GST at the rate of 18% (for the period from 01.07.2017 to 21.08.2017) and at 12% thereafter. Thus there was an increase in the writ petitioner's tax liability. In the meanwhile, the writ petitioner filed its returns for the periods 2017-18, 2018-19 and 2019-20 belatedly. The appellants [GST Authorities] issued a notice dated 13.02.2020 in Form GST ASMT-10 demanding interest on the delayed payment of tax under Section 50 of the Central Goods and Services Tax Act, 2017, followed by a notice dated 19.02.2020. Thereafter the GST



Authorities initiated recovery by issuing a notice dated 18.03.2020 in Form GST DRC-13 under Section 79(1)(c) of the said Act to the writ petitioner's banker.

5. The appellants contend that the delay in payment of self-assessed tax occurred on as many as twenty-six occasions, ranging from one day to 338 days. The writ petitioner challenged the said action in the writ petition, contending that the larger question of the taxability of works contracts entered into prior to 01.07.2017 was pending consideration before this Court.

6. The writ petition filed by the writ petitioner was allowed by the impugned order. The impugned order is a common order passed in a batch of writ petitions [**Sri. Chandrashekaraiah and others v. The State of Karnataka** (W.P.No.9721/2019 and connected matters, including W.P.No.10163/2020), decided on 11.04.2023].

The operative part of the impugned order reads as under:

“20. In the result, I pass the following:-

ORDER

- (i) Petitions are hereby disposed of.
- (ii) The Respondents-State and other Govt agencies / Respondents who have entered into works contract with



the Petitioners are issued the following directions / guidelines:-

- (a) Calculate the works executed pre-GST (prior to 01.07.2017) under KVAT regime and payments received by the Petitioners.
- (b) The payments received by the Petitioners pre-GST for such of the works executed before 01.07.2017 are to be assessed under KVAT tax regime – either under COT or VAT scheme as applicable.
- (c) Calculate the balance works to be completed or completed after 01.07.2017, in the original contract.
- (d) Derive the rate of materials, KVAT items required or used to complete the balance works.
- (e) Deduct the “KVAT” amount from those materials and the service tax, if applicable.
- (f) Add the applicable “GST” on those items.
- (g) Input Credit on the materials is to be arrived at and be set off as against the output GST, for those assessed under regular VAT.
- (h) Further, the “tax difference” should be calculated on such balance works executed or to be executed after 01.07.2017 separately.
- (i) Based on the result obtained on calculation of the tax difference on the contract value, concerned department/authority has to decide whether agreement needs to be changed or not.
- (j) A supplementary agreement may be signed with the Petitioners for the revised GST-inclusive work value for the Balance Work completed or to be completed as determined above and in case the revised GST-inclusive work value for the Balance Work, completed or to be completed after 01.07.2017, is more than the original agreement



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work value, the Petitioners are to be paid /reimbursed, as the case may be, the differential tax amount by the concerned employer; so also, in case payments for works completed pre-GST are made post-GST, the concerned employer has to pay or reimburse, as the case may be, the differential tax amount, to the Petitioners.

- (iii) Petitioners are directed to submit comprehensive representations to the respective employers/Respondents within a period of 4 weeks from the date of receipt of a copy of this order, irrespective of whether they have completed the works pre-GST or post-GST or payments were received or yet to be received post-GST.
- (iv) If such representations are submitted, the respective employers/Respondents are directed to consider and dispose of the same in the light of the aforesaid directions / guidelines as expeditiously as possible and at any rate within a period of 8 weeks from the date of submission of the representations.
- (v) In view of the interim orders passed by this Court in the present petitions, such of the petitioners who had not filed their GST returns during the period after 01.07.2017 are permitted to file their returns / amended returns, pursuant to the calculation of the differential tax as per procedure above under GST regime, without insisting on interest or penalty or limitation.
- (vi) The GST authorities are also directed not to take precipitative action against the Petitioners for a period of 6 months from the date of receipt of a copy of this order.
- (vii) Liberty is reserved in favour of the petitioners to challenge any order / decision passed / taken by the respondents or the authorities, subsequent to this order and also take recourse to such remedies as available in law."



7. The learned counsel appearing for the appellants has confined the challenge to the impugned order to the directions issued to the tax authorities. It is submitted that the operative part of the order insofar as it (i) permits the writ petitioner to file returns / amended returns for the period after 01.07.2017 by calculating the differential tax in the manner set out therein; waives the interests, penalty; relaxes the period of limitation under the GST Acts; and directs the GST authorities not to take precipitative action against the writ petitioner, is contrary to the statutory scheme. It is submitted that the levy of interest under Section 50 of the Central Goods and Services Tax Act, 2017 is mandatory and admits of no discretion to waive or reduce the levy. There is no provision enabling the filing or amendment of returns in the manner as directed.

8. The short question that falls for consideration is whether the learned Single Judge could have issued directions to the tax authorities to permit filing of returns/revised returns while waiving interest, penalty, and limitation under the GST Acts, and to refrain from precipitative action.



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9. The dispute as to whether the writ petitioner would be entitled to reimbursement of the incremental tax paid or payable by it on account of the levy of GST is strictly a matter between the contracting parties - writ petitioner and the main contractor - with whom it had entered into the contract. The contract between the said parties or the contract between the main contractor and KNNC would not alter the statutory scheme for the levy of GST. Thus, the liability of the writ petitioner to pay Goods and Services Tax (whether under the Central Goods and Services Tax Act, 2017, the State Goods and Services Tax Act, 2017 or the Integrated Goods and Services Tax Act, 2017) is required to be determined strictly in accordance with the provisions of the relevant statute. The question of the levy of GST, assessment, recovery, and enforcement is a matter of statutory prescription.

10. It is well settled that the liability to pay interest on delayed payment of tax under a fiscal statute arises by operation of law, leaving no discretion in the authority to waive or reduce, if the statute makes no such provision (see **Pratibha Processors v. Union of India, (1996) 11 SCC 101**). The directions in the impugned order waiving interest, penalty, and limitation, and



permitting the filing or amendment of returns in a manner not contemplated by the statute, therefore cannot be sustained.

11. In view of the above, the directions issued permitting the filing of any revised returns contrary to the provisions of the statute are unsustainable. The blanket directions to waive the penalty, interest under the GST Acts or the limitation for filing returns/revised returns are also unsustainable.

12. The controversy as to which party is required to bear the incremental tax burden arising on account of the change in the tax regime is, in essence, one between the contracting parties. In the context of such a dispute, no directions could be issued to the tax authorities regarding the levy, assessment, and collection of tax, penalty, or interest.

13. In the aforesaid view, the direction issued to the respondents to reimburse the tax is required to be construed as a direction only to the concerned party with whom the writ petitioner had entered into the contract and not to the tax authorities.



14. Accordingly, the impugned order, insofar as it relates to W.P.No.10163/2020 is set aside. The appeal is disposed of in the aforesaid terms.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(K.S. HEMALEKHA)
JUDGE**

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List No.: 2 Sl No.: 0