HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 15670 OF 2026 (T-RES)

BETWEEN:

M/S. GR TECH SERVICES PVT LTD.
34/3, MEENPET, 34/1,
MALABAR ROAD, VIRAJPET,
KODAGU 571218.

COMPANY REGISTERED UNDER
THE COMPANIES ACT, 1956
REPRESENTED BY P. RAMACHANDRAN
AGED 66 YEARS, MANAGING DIRECTOR
RESIDING AT SREELAKSHMI APARTMENTS,
LAKSHMI DAIRY CAMPUS,
VYTTILA, KOCHI - 682 019

...PETITIONER

(BY SRI. PRASHANTH SABARISH SHIVADASS., ADVOCATE AND SRI. SHARADHA RAJGIRI., ADVOCATE)

AND:

1. ASSISTANT COMMISSIONER OF
COMMERCIAL TAXES (AUDIT),
MADIKERI OFFICE OF
THE ASSISTANT COMMISSIONER OF
COMMERCIAL TAXES (AUDIT),
KSFC BUILDING, INDUSTRIAL AREA,

MADIKERI 571201.

2. JOINT COMMISSIONER (APPEALS),
COMMERCIAL TAX OFFICE,
SHESHADRI BHAVAN, DEWAN ROAD
DEVRAJ MOHALLA,
MYSURU - 570004.

3. AXIS BANK LIMITED
REPRESENTED BY
THE MANAGER MERIDIAN FORT CENTRE,
MARKET JUNCTION, EAST FORT GATE,
HILL PALACE ROAD,
THRIPPUNITHURA,
KERALA 682 301.

...RESPONDENTS

(BY SRI.SHAMANTH NAIK., HCGP FOR R1 AND R2;
VIDE ORDER DATED 03.06.2026;
NOTICE IS DISPENSED WITH IN RESPECT OF R3)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A. TO ISSUE ORDER(S), DIRECTIONS, WRIT(S) IN THE NATURE OF CERTIORARI QUASHING THE FORM GST APL-02 BEARING REFERENCE NO. ZD2906250851752 DATED 24.06.2025, ANNEXED AT ANNEXURE- A, INSOFAR AS IT PERTAINS TO THE PETITIONER HEREIN, ON THE GROUND THAT THE SAME IS ARBITRARY IN NATURE AND AGAINST THE PRINCIPLES OF NATURAL JUSTICE, AS IT HAS BEEN PASSED WITHOUT PROVIDING AN OPPORTUNITY OF PERSONAL HEARING; B. TO ISSUE

ORDER(S), DIRECTIONS, WRIT(S) IN THE NATURE OF CERTIORARI QUASHING NOTICE VIDE FORM GST DRC-13 BEARING FILE NO. ACCT(AUDIT)/DRC-13/2026-27 DATED 06.05.2026 ANNEXED AT ANNEXURE B, INSOFAR AS IT PERTAINS TO THE PETITIONER HEREIN, ON THE GROUND THAT THE SAME IS ILLEGAL, WITHOUT AUTHORITY OF LAW AND AGAINST THE PRINCIPLES OF NATURAL JUSTICE; C. TO ISSUE ORDER(S), DIRECTIONS, WRIT(S) IN THE NATURE OF CERTIORARI QUASHING ORDER-IN-ORIGINAL NO. ACCT/AUDIT/MADIKERI/ADJ-17/2024-25 SIGNED ON 30.07.2024 BEARING REFERENCE NO. ZD290724100471L ANNEXED AT ANNEXURE C, INSOFAR AS IT PERTAINS TO THE PETITIONER HEREIN, ON THE GROUND THAT THE SAME IS IN VIOLATION OF PRINCIPLES OF NATURAL JUSTICE, AND AGAINST THE PROVISIONS OF THE GST LAW, AS IT HAS BEEN PASSED WITHOUT PROVIDING AN OPPORTUNITY OF PERSONAL HEARING; D. TO ISSUE ORDER(S), DIRECTIONS, WRIT(S) IN THE NATURE OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT HOLDING THAT TAX PAID UNDER IGST HEAD CAN BE ADJUSTED BY RESPONDENT NO. 1 AGAINST THE CGST AND SGST HEAD WHEN THERE IS NO REVENUE LOSS TO THE GOVERNMENT.

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

CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD

ORAL ORDER

The petitioner is aggrieved by the Adjudication Order dated 30.07.2024 [*Annexure C*] under Section 73 (9) of the Central Goods and Services Tax/Karnataka Goods and Services Tax, 2017 [for short, '*the CGST/KGST Act*'] read with the relevant Rules and the other enactments and the dismissal of the appeal against such order on the ground of limitation culminating in a demand in Form GST DRC-13. The order-in-appeal is dated 24.06.2025 which is produced as Annexure-A, and the consequential Demand in Form GST DRC-13 is dated 06.05.2026 [*Annexure-B*].

2. The petitioner in presenting these proceedings proposes to contend that the authorities should have either refunded the IGST wrongfully paid or adjusted the same towards the CGST/KGST liability. This contention is in the light of the following facts and circumstances:

[a] The petitioner's transactions are with M/s. Larsen and Turbo Limited which has its units both in Bengaluru and Chennai;

[b] The transactions are relevant to the tax period 2019-20;

[c] The petitioner for the initial months has raised invoice on its vendors' unit at Chennai and offered IGST, but upon realizing that the invoice had to be raised on the vendors' unit at Bengaluru, it has filed returns accordingly offering CGST/KGST liability.

3. The dispute relates to the IGST offered instead of CGST/KGST, and this is the subject matter of an audit observation. The audit observation is that the petitioner has wrongly remitted ITC but it has no choice except to first paying the tax under the corrected head and then claim the refund on payment of tax made under the wrong head which could be considered under Section 77(1) of the CGST/KGST

Act. The proceedings with the Show Cause Notice are closed based on the audit observation and the appeal is dismissed on the ground of delay. This Court must also observe that the petitioner's application for refund of the IGST is rejected supposedly because the request for refund is with the CGST/KGST authorities when the IGST is offered based on invoices for interstate transaction.

4. Sri Prashanth Sabarish Shivadass, the learned counsel for the petitioner emphasizes these facts and circumstances and relies upon the provisions of Section 77(2) of the CGST/KGST Act and Rule 92 of the Goods and Services Tax Rules, 2019 [for short, *'GST Rules'*] to contend that the IGST offered should have been adjusted towards the CGST/KGST and only in the event of a shortfall, a claim could be made with interest and not otherwise. In support of this canvass, the learned counsel relies upon the decision of High Court of Kerala in ***Saji S.,***

***Proprietor, Adithya and Ambadi Traders & Another v. The Commissioner, State GST Department, Thiruvanthapuram & Ors*[1]**. Sri Shamanth Naik, the learned High Court Government Pleader, is heard in the facts and circumstances as recorded above and the decision of the High Court of Kerala in the light of Sections 77 (2) of the CGST/KGST Act and Rule 92 of the GST Rules.

5. This Court at the first instance must observe that Section 77(2)[2] of the CGST/KGST Act stipulates that a registered person, who has paid integrated tax on a transaction considered by him to be an interstate supply but which is subsequently held to be an intra-state supply, shall not be required to pay either the interest or tax. This Rule is read by

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[1] *2018 – VIN - 508 KER*

[2] *A registered person who has paid integrated tax on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall not be required to pay any interest on the amount of State tax payable.*

the Kerala High Court in conjunction with Rule 92 of GST Rules which contemplates adjustment of an amount to which an assessee is entitled and the order that must be in Part A of Form GST DRC -07 giving the details of the adjustment as against a refund. It is in the light of these provisions the High Court of Kerala has observed thus:

> *As seen, Section 77 provides for the refund of the tax paid mistakenly under one head instead of another. But Rule 4 speaks of adjustment. Where the amount of refund is completely adjusted against any outstanding demand under the Act, an order giving details of the adjustment is to be issued in Part A of FORM GST RFD-07. The petitioner's counsel lays stress on this process of adjustment and asserts that the amount remitted under one head can be adjusted under another head, for the demand can be any amount under the Act.*

6. There can be no dispute that the original authority has not read the provisions of Section 77(2) of the CGST/KGST Act in conjunction with Rule 92 of

the GST Rules in raising a demand on the petitioner along with interest and penalty. If the petitioner, in terms of the conjoint reading by the High Court of Kerala, cannot be fastened with the liability to pay either tax or interest or penalty because it has wrongly offered IGST, this Court is of the opinion that for just orders the original authority must consider these aspects and issue an order in the prescribed form in the light of the undisputed facts and circumstances. As such, there must be interference to remand the matter to the original authority instead of closing the proceedings at this stage. In the light of the afore, the following:

ORDER

The petition is allowed-in-part quashing the Adjudication Order dated 30.07.2024 [Annexure-C], the Order-in-Original dated 24.06.2025 [Annexure-A] and Demand in form GST DRC-13 dated 06.05.2026 [Annexure-B] restoring the proceedings to the first respondent to consider and pass orders in the light of this Court's affirmation of the proposition exposited by the High Court of Kerala [*supra*].

Sd/-
(B M SHYAM PRASAD)
JUDGE

SA
List No.: 3 Sl No.: 2