HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 15125 OF 2026 (T-RES)

BETWEEN:

1. SRI. VISHAL SINGH (OWNER OF GOODS),
S/O. RAMACHANDRA SINGH,
KALKARE MAIN ROAD,
MAJOR, NO.9, 11TH CROSS, K. CHANNASANDRA
HORAMAVU, CHANNASANDRA,
NEAR JOHN PAUL CHURCH,
BENGALURU,
KARNATAKA-560 043.
GSTIN292600002740TMP.
AND ALSO ATNO.
NO.3432, 6TH CROSS,
C BLOCK, GAYATHRINAGAR,
SRIRAMPURAM,
BENGALURU-21.

2. SRI. MOHAMMED UMAR, (DRIVER)
S/O. MOHAMED YASIN,
M/S. SHREE RAJESHWARI TRANSPORT,
MAJOR,
NO.64, 1ST MAIN ROAD,
LAKSHMI COMMERCIAL COMPLEX,
FLAT NO.2, SHESHADRIPURAM,
BANGALORE-560 020.

AND ALSO ADDRESS ATNO.
VILL PIPRA DOMAN POST,
DUDHARA,
USRA SHAHEED PS, SANT KABIR NAGAR, BASTI DISTRICT, UTTAR PRADESH-272002.

3. SHREE RAJESWAR TRANSPORT,
GALA NO.1 AND 2, H NO.374, BLDG., F/5,
PARASNATH COMPLEX, DAPODA ROAD, OWALI,
BHIWANDI, THANE,
MAHARASTRA-421302.

...PETITIONERS

(BY SRI. PUTHIGE R. RAMESH, SENIOR ADVOCATE FOR SRI. A. SRIKANTH, ADVOCATE)

AND:

1. THE COMMERCIAL TAX OFFICER
(ENFORCEMENT)-25) (SOUTH ZONE),
NO.105, 1ST FLOOR,
B BLOCK, VANIJYA THERIGE,
KARYALAYA-2,
KORAMANGALA,
BANGALORE-560 047.

2. THE JOINT COMMISSIONER OF
COMMERCIAL TAXES
(APPEALS-1), SHANTHINAGAR,
BENGALURU-560 027.

3. ADDITIONAL COMMISSIONER OF
COMMERCIAL TAXES (SMR)-1,
BENGALURU-560 009.

...RESPONDENTS

(BY SRI. K. HEMA KUMAR, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT SETTING ASIDE THE ORDER OF THE ADDITIONAL COMMISSIONER OF TAXES (SMR)-1, BANGALORE IN ITS ORDER NO. SMR-COMMERCIAL 1/GST/BNG/STAY/2026-27 DATED 4.5.2026 VIDE ANNEXURE-D; DIRECT THE RESPONDENT AUTHORITIES TO RELEASE THE CONFISCATED GOODS AS WELL AS VEHICLE INSPITE OF PENALTY HAVE BEEN PAID ON 10.4.2026 IN PURSUANCE OF COMPLIED THE ORDER OF 1ST APPELLATE AUTHORITY DATED 8.4.2026 VIDE ANNEXURE-B.

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 question for consideration is: *whether this Court must interfere under Article 226 of the Constitution of India when the Revenue proposes to initiate suo motu revision under Section 108 of the Karnataka Goods and Services Tax Act, 2017/Central Goods and Services Tax Act, 2017* [for short, '*KGST/CGST Act*'] with Mr. Puthige R. Ramesh, the learned Senior Counsel for the petitioners, arguing for intervention on this question emphasizing the following:

[a] The third petitioner is the Transporter. The second petitioner is the owner of the vehicle at the relevant time. The first petitioner is the owner of goods being transported.

[b] The third petitioner's vehicle is intercepted on 05.01.2026 resulting in confiscation of the goods and the vehicle under Section

130 of the CGST and demand for a sum of Rs. 38,94,592/-.

[c] The second petitioner has called this order in question in an appeal, and the Appellate Authority has opined that there could not have been confiscation, but penalty must be paid as permissible under Section 129(1)(a) of the KGST/CGST Act.

[d] The Appellate Authority assessing the value at Rs.5,98,771/- has levied 200% of tax as penalty based on such value.

[e] The Additional Commissioner of Commercial Taxes [SMR]-1, Bengaluru - the jurisdictional Revisional Authority - in exercise of the powers under Section 108(1) of the KGST/CGST Act, has stayed the Appellate Authority's order dated 08.04.2026.

2. Mr. Puthige R. Ramesh, relying upon the orders of the Co-ordinate Bench of this Court on ***23.04.2026*** in ***W.P.No.12518/2026***, submits that in very similar circumstances, this Court has permitted release of goods and conveyance leaving open all contentions to be urged in the proposed revision. The learned Senior counsel underscores that the petitioners are not yet served with any notice of *suo motu* revision and that this Court could consider directing the respondents to release the goods and conveyance in the respondents' custody on terms that are equitable.

3. Mr. K. Hema Kumar, the learned Additional Government Advocate, submits that the petitioners are not issued with notice of the proposed *suo motu* revision proceedings under Section 108 of the KGST/CGST Act because of this petition. The learned Additional Government Advocate points out that the confiscation order under Section 130 of the

KGST/CGST Act is because of the mismatch in the quantity of the goods as mentioned in the invoice and the quantity of goods as verified after interception. The Appellate Authority has fallen in error in opining that there could not have been confiscation of goods. In reply, Mr. Puthige R. Ramesh argues that the 200% penalty in terms of the confiscation order is based on the price as determined by the Authorities without reference to objective material.

4. It is obvious from the rival submissions that the dispute is over the alleged mismatch between the invoiced quantity and the quantity verified after interception and the price of goods and conveyance as ascertained by the authorities under Section 130 of the Act[1]. This controversy will have to be decided in the *suo motu* revision proceedings which, as it is now stated before this Court, is yet to be commenced

[1] *The value of the goods and the conveyance as mentioned in the Confiscation Order is Rs.27,15,208/- and Rs.5,64,692/-.*

and is deferred only because of the pending writ petition. In the circumstances, and given the nature of the goods and the other specifics of this particular case, this Court is of the view that there must be just orders on the release of the goods in the Authority's custody on terms without the Revenue's interest being prejudiced in any manner.

5. Mr. Puthige R. Ramesh and Mr. K. Hema Kumar are also heard on this aspect. The petitioners have paid a sum of Rs.2,15,556/- in compliance with the Appellate Authority's order and the controversy would be around the difference between the penalty of Rs.38,94,592/- under the Confiscation Order and this amount of Rs.2,15,556/- [*the difference amount of Rs.36,79,036/-*]. Mr. Puthige R. Ramesh is categorical in stating that the petitioners will deposit 25% of the difference amount without prejudice and subject to outcome in the revision that is proposed, and Mr. K. Hema Kumar submits that there must be

directions to furnish bank guarantee for the remaining 75% of the difference amount as aforesaid

6. In the peculiarities of the case, the terms must be just and reasonable. The petitioners have offered to deposit 25% of the difference amount, and this Court is of the view that for the balance amount [*i.e., 75% of the difference amount*], the petitioners must offer bank guarantee. This Court must also direct the Authority to issue notice of the *suo motu* revision under Section 108 of the KGST/CGST Act and conclude the proceedings expeditiously within a period of four [4] months from today. In the light of the afore, the following:

ORDER

The petition is allowed directing the respondents to release the petitioners' goods and conveyance at the earliest subject to the following conditions:

[a] The petitioners shall deposit 25% of the difference amount.

[b] The petitioners shall offer bank guarantee for the remaining 75% of the difference amount.

[c] The petitioners will be at liberty to make the deposit and furnish the bank guarantee within three [3] weeks from today.

[d] The Revisional Authority shall commence and conclude the proposed revisional proceedings expeditiously, and in any event, within four [4] months from today.

Sd/-
(B M SHYAM PRASAD)
JUDGE

RB