HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH 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. 261 OF 2026 (T-RES)**

**BETWEEN:**

1. STATE OF KARNATAKA
REPRESENTED BY
ADDL. CHIEF SECRETARY
FINANCE DEPARTMENT
II FLOOR, VIDHANA SOUDHA
BENGALURU - 560 001

2. OFFICE OF THE
ASSISTANT COMMISSIONER OF
LOCAL GOODS AND SERVICE TAX
LSGTO-210, CHIKKAMANDYAKERE
COMMERCIAL TAX OFFICE
VIVEKANANDA NAGARA
NAGAMANGALA ROAD
MANDYA - 571 402

3. KARNATAKA CHIEF SECRETARY
III FLOOR, VIDHANA SOUDHA
BENGALURU - 560 001
REPRESENTED BY THE
ADDL. CHIEF SECRETARY
FINANCE DEPARTMENT

...APPELLANTS

(BY SRI ADITYA VIKRAM BHAT, AGA)

**AND:**

1. M/S BLG AND SONS
NO.2028, HALAHALLY
MANDYA DISTRICT - 571 401

REPRESENTED BY ITS PARTNER
M L SHASHIKUMAR
AGED ABOUT 44 YEARS
NO.2028, HALAHALLY
MANDYA DISTRICT - 571 401

2. THE EXECUTIVE ENGINEER
RURAL DEVELOPMENT AND
PANCHAYATI RAJ DEPARTMENT
PROJECT DIVISION
MANDYA - 571 401

3. THE CHIEF EXECUTIVE ENGINEER
KARNATAKA RURAL DEVELOPMENT
AND PANCHAYATI RAJ DEPARTMENT
PROJECT DIVISION
MANDYA - 571 401

...RESPONDENTS

(BY SMT. LAKSHMI MENON, ADVOCATE FOR R1;
SMT. NAMITHA MAHESH B.G, AGA FOR R2 & 3)

THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 19.03.2025 PASSED BY THE LEARNED SINGLE JUDGE, HIGH COURT OF KARNATAKA, BENGALURU IN W.P.No.23890/2024.

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. For the reasons stated in the application, I.A. No. 1/2026 is allowed. The delay of 279 days in filing the present appeal is condoned.

2. The appellants have filed the present appeal impugning the order dated 19.03.2025 [**impugned order**] passed by the learned Single Judge of this Court in W.P.No.23890/2024 (T-RES). Respondent No.1 [**writ petitioner**] had filed the said writ petition, *inter alia*, praying as under:

> "a) To issue a writ of Certiorari or order or direction in the nature of Certiorari to set aside the Show Cause Notice bearing Reference No. ACCT-LGSTO-210/MDY/T.No.2023-24 dated 27.12.2023 issued by the Respondent no.2 for the relevant FY 2018-19 (Annexure-J);
>
> b) To issue a writ of Certiorari or order or direction in the nature of Certiorari to set aside the summary SCN in FORM GST DRC-01 dated 28.02.2023 bearing Reference no. ZD292230875057, issued by the Respondent no.2 for the relevant FY 2018-19 (Annexure-J1);
>
> c) To issue a writ of Certiorari or order or direction in the nature of Certiorari to set aside and quash the Impugned Order passed by Respondent no.2 under Section 73(9) of

the KGST and CGST Act, 2017, dated 18.03.2024 bearing no. ACCT/LGSTO-20/MDY/T.No.2785/2023-24 for the relevant FY 2018-19 (Annexure-L);

d) To issue a writ of Certiorari or order or direction in the nature of Certiorari to set aside and quash the summary of the impugned order in Form DRC-07 bearing reference no. ZD2903240478353, dated 19.03.2024 for the relevant FY 2018-19 (Annexure-L1);

e) Alternatively, in the event the demand under Section 73(9) of the KGST and CGST Act, 2017 is not set aside, issue a writ of Mandamus directing the Respondent nos.4 and 5 to enter into a Supplementary Tender Agreement, or any other permissible arrangement, revise the rate of applicable taxes and pay the differential GST liability imposed on the Petitioner;

f) To issue a writ of Mandamus to Respondent no.2 to modify the tender agreement dated 10.08.2017, for Package no. KS-2-38, at the applicable tax rates under GST regime; and

g) Grant any other orders that this Hon'ble Court deems fit and proper in the interest of justice."

3. The said writ petitioner is a partnership firm, engaged in the business of construction of roads and drains, in the State of Karnataka. The writ petitioner was duly registered as a dealer under the Karnataka Value Added Tax Act, 2003 [**KVAT Act**], prior to the roll out of the Goods and Services Tax [**GST**] regime with effect from 01.07.2017. After the rollout of the GST regime on 09.07.2018, the writ petitioner was registered with the GST authorities under GSTIN 29AAQFB0406M1Z8.

4. The writ petitioner and the Rural Development and Panchayati Raj Department [**RDPR**], Mandya, entered into works contract agreements on 07.11.2016 [**the Agreements**] for inter alia executing the following works:

> "(i) Package No. KS 21-17B — improvement of roads in Mandya District;
>
> (ii) Package No. KS 21-17A — improvement of roads in Mandya District;
>
> (iii) Package No. KS 21-15A — improvement of roads in Mandya District;
>
> (iv) Package No. KS 21-38 — improvement of roads in Mandya District."

5. The writ petitioner commenced the project works and raised bills and invoices in accordance with the Agreements. The writ petitioner claimed that it was initially liable to pay Value Added Tax [**VAT**] at the rate of 4%, but after 01.07.2017, it became liable to pay GST at the rate of 12% for the execution of the works. The writ petitioner stated that although the imposition of GST increased its tax liability, it continued to execute the works and perform its obligations under the Agreements. The writ petitioner stated that the amounts received from the RDPR included the tax component at the rate of 4% applicable under the KVAT regime, and that the

RDPR failed to reimburse the differential tax arising on account of the transition to GST. No supplementary agreement was entered into between the writ petitioner and the RDPR to revise the contracted rates to absorb the applicable GST.

6. The writ petitioner also claimed that it was unable to pay the GST to Appellant No.2 due to non-reimbursement of the differential amount by the RDPR.

7. Appellant No.2, the Assistant Commissioner of Local Goods and Service Tax, LGSTO-210, Mandya, conducted scrutiny of the writ petitioner's returns under Section 61 of the Central Goods and Services Tax Act, 2017 [**CGST Act**] and the Karnataka Goods and Services Tax Act, 2017 [**KGST Act**] for the Financial Year 2018-19, and noticed a short payment of tax towards outward taxable supplies. Accordingly, the Respondent No. 2 issued an intimation notice dated 20.12.2023 in Form GST DRC-01A, but no response was received from the writ petitioner.

8. The writ petitioner furnished its reply to Appellant No.2, *inter alia*, stating that the amounts received from the RDPR under the Agreements included only the tax component at a rate of 4% under

the KVAT regime, and that, in the absence of a supplementary agreement revising the contracted rates, it could not be made to bear the differential GST burden. It also claimed that it was unable to pay the GST because the RDPR had not reimbursed the said amount.

9. Appellant No.2 issued a Show Cause Notice dated 27.12.2023 under Section 73(1) of the KGST Act for the Financial Year 2018-19.

10. The writ petitioner claimed that it once again requested the RDPR to release the reimbursement of the differential GST. The writ petitioner submitted a representation to the RDPR requesting reimbursement of the differential tax amount under the GST regime and amendment of the Agreements to the extent of the differential tax amount under the GST regime as intimated by the RDPR's superior authority by letter dated 13.08.2021,

11. The writ petitioner also responded to the Show Cause Notice dated 27.12.2023 issued by Appellant No.2 and appeared for a personal hearing on 12.03.2024. The said proceedings culminated in the passing of an Assessment Order under Section 73(9) of the

KGST Act dated 18.03.2024 bearing No.ACCT/LGSTO-210/MDY/T.No.2785/2023-24, raising a demand of Rs.69,67,774/- (Rupees Sixty Nine Lakhs Sixty Seven Thousand Seven Hundred and Seventy Four only).

12. In the aforesaid backdrop, the writ petitioner filed a Writ Petition in W.P.No.23890/2024.

13. The writ petitioner claimed that the prices it quoted for the works included only VAT computed at 4% of the taxable turnover. However, a portion of the project work was executed prior to 01.07.2017, and the remaining portion was executed after the GST regime came into force. The writ petitioner claimed that the RDPR was liable to reimburse the differential tax component of the project works executed by it under the Agreements.

14. The said writ petition was allowed by the impugned order. The operative part of the impugned order reads as under:

> "i. The petition is allowed and disposed of in terms of the aforesaid judgments of Chandrashekaraiah and M.G. Arun Kumar referred to in the body of this order.
>
> ii. The concerned respondents are directed to rectify/withdraw the demand of tax liability, interest and penalty accordingly.

iii. The concerned respondents are further directed to reimburse the GST amount and differential tax amount in terms of judgments of this Court in the cases of Chandrashekaraiah and M.G. Arun Kumar referred to in the body of this order, within a period of six weeks from the date of receipt of a copy of this order.

iv. The concerned respondents are directed to enter into the necessary Supplementary Tender Agreement and proceed further in accordance with law in terms of judgments of Chandrashekaraiah and M.G. Arun Kumar referred to in the body of this order."

15. As is apparent from the above, the writ petition was allowed following the earlier decision in the case of **Sri Chandrashekaraiah and others V. The State of Karnataka and others**[1] and **Sri M.G. Arunkumar V. The State of Karnataka and another**[2]**.** It is thus relevant to refer to the operative part of the decision in **Sri Chandrashekaraiah** (*supra*). The same is set out below:

"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:-

[1] W.P. No. 9721/2019, dated 11.04.2023.
[2] W.P. No. 104908/2023, dated 29.08.2023

(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 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."

16. The learned counsel appearing for the appellants has confined the challenge to the impugned order on two fronts. First, it is submitted that the operative part of the order seeks to incorporate the directions issued in the case of **Sri Chandrashekaraiah** (*supra*), which also includes a direction enabling the writ petitioner to file GST returns/amended returns for

the period after 01.07.2017 by calculating the differential tax in a manner as set out in the said order. Further, the interest and penalty have been waived, and the limitation period has been relaxed. Second, it is submitted that the appellants are not liable to reimburse any amount to the writ petitioner, and the direction to the concerned respondents to do so must be read as confined to the concerned Employer, namely the RDPR (Respondent Nos.4 and 5 in the writ petition).

17. The dispute as to whether the writ petitioner is entitled to reimbursement of incremental tax paid or payable by it on account of the levy of GST is strictly a matter between the writ petitioner and RDPR, with whom it contracted to execute the works in question. The Agreements between the writ petitioner and the Employer would not alter the statutory scheme for the levy of GST. Thus, the liability of the writ petitioner to pay Goods and Services Tax under the Central Goods and Services Tax Act, 2017, the Karnataka Goods and Services Tax Act, 2017 or the Integrated Goods and Services Tax Act, 2017 as the case may be, 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 and cannot be altered by the terms of any private contract.

18. In view of the above, no directions could be issued permitting the filing of revised returns contrary to the provisions of the statute. The plenary directions to waive penalty or interest under the GST Acts or to relax the limitation for filing returns are also unsustainable. No such directions can be issued contrary to the statute.

19. 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 Employer and not to the tax authorities.

20. The impugned order, to the extent of the directions issued to the tax authorities/State, is set aside. The appeal is disposed of in the aforesaid terms.

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

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

KMV
List No.: 2 Sl No.: 33