IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 19861 OF 2026 (T-RES)

BETWEEN:

SHRI DASARI RAJAKUMARA
CONTRACTOR
SON OF SHRI. DASARAIH
AGED ABOUT 38 YEARS
HAVING PLACE OF BUSINESS AT
NO.204, KONASAGARA
CHITRADURGA DISTRICT
KARNATAKA - 577529.

...PETITIONER

(BY SRI. PRANAY SHARMA Y., ADVOCATE)

AND:

1. THE JOINT COMMISSIONER OF
COMMERCIAL TAX (APPEALS)
VANIJYA THERIGE BHAVANA
1ST FLOOR, DEVARAJA URS LAYOUT,
'A' BLOCK, P.B. ROAD,
DAVANAGERE, KARNATAKA - 577006.

2. ASSISTANT COMMISSIONER OF
COMMERCIAL TAX
LGSTO-485, CHALLAKERE 1ST FLOOR,
NRR ARCADE, OPPOSITE CHALLAKERAMMA
TEMPLE, BALLARI ROAD,

CHALLAKERE - 577522.

3. CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS, REPRESENTED BY ITS CHAIRPERSON, NORTH BLOCK, NEW DELHI-110 001.

4. STATE OF KARNATAKA, REPRESENTED BY SECRETARY FINANCE DEPARTMENT, VIDHANA SOUDHA, BANGALORE 560 001.

...RESPONDENTS

(BY SRI.K. HEMA KUMAR., AGA FOR R1, R2 AND R4)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) QUASHING THE ORDER IN APPEAL PASSED UNDER SECTION 107(11) OF ACT BY THE RESPONDENT NO.1 VIDE OIA NO. KGST/AP-07/2024-25 DATED 04.09.2025. COPY OF THE ORDER IN APPEAL DATED 04.09.2025 IS ENCLOSED AND MARKED AS ANNEXURE - A1; B) QUASHING THE ORDER IN APPEAL PASSED UNDER SECTION 107(11) OF ACT BY THE RESPONDENT NO.1 VIDE OIA NO. KGST/AP-07/2024-25 DATED 01.01.2025. COPY OF THE ORDER IN APPEAL DATED 01.01.2025 IS ENCLOSED AND MARKED AS ANNEXURE - A2; C) QUASHING ORDER IN ORIGINAL PASSED UNDER SECTION 73(9) OF THE ACT BY THE RESPONDENT NO.2 VIDE ORDER IN ORIGINAL NO.29/2023-24 BEARING FILE NO. ACCT/LGSTO-485/CLK/2023-24 DATED 16.12.2023 COPY OF THE ORDER IN ORIGINAL DATED

16.12.2026 IS ENCLOSED AND MARKED AS ANNX-A3; D) QUASHING THE SUMMARY OF THE ORDER IN ORIGINAL PASSED UNDER SECTION 73 OF THE ACT, 2017 BY THE RESPONDENT NO.2 VIDE REFERENCE NUMBER ZD291223044525G DATED 16. 12. 2023. COPY OF THE SUMMARY OF THE ORDER IN ORIGINAL IN DRC-07 DATED 16 12.2023 IS ENCLOSED AND MARKED AS ANNEXURE - A4; E) DECLARE THAT THE IMPUGNED NOTIFICATION NO. 9/2023-CT DATED 31.03.2023 IS ILLEGAL AND ULTRA VIRES THE PROVISIONS OF SECTION 168A OF CENTRAL GOODS AND SERVICE ACT, 2017 ISSUED BY THE RESPONDENT NO.3 AND ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR ORDER OR DIRECTION AND QUASH THE IMPUGNED NOTIFICATION NO.9/2023-CT DATED 31.03.2023 REFERRED AS ANNEXURE - B; F) DECLARE THAT THE IMPUGNED NOTIFICATION 06/2023 DATED 06.04.2023 IS ILLEGAL AND ULTRA VIRES THE PROVISIONS OF SECTION 168A OF KARNATAKA GOODS AND SERVICE ACT, 2017 ISSUED BY THE RESPONDENT NO.4 AND ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR ORDER OR DIRECTION AND QUASH THE IMPUGNED NOTIFICATION 06/2023 DATED 06.04.2023 REFERRED TO AS ANNEXURE - C.

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 has availed the appellate remedy under Section 107 of the Karnataka Goods and Services Tax Act, 2017 being aggrieved by the Adjudication Order under Section 73(9) of the Karnataka Goods and Services Tax Act, 2017/Central Goods and Services Tax Act, 2017 [for short, '*the Acts*']. The Appellate Authority *vide* the order dated 01.01.2025 has rejected the appeal on limitation. The petitioner has also filed an application for rectification of the Order-in-Appeal, and this application is rejected *vide* order dated 04.09.2025.

2. The Order-in-Original dated 16.12.2023 is an *ex parte* order. Sri Pranay Sharma Y., the learned counsel for the petitioner, argues for interference emphasizing:

- The petitioner has deposited 10% of the tax amount while availing the appellate remedy.
- The Order-in-Original is concluded *ex parte*.

- The authorities have relied upon the Notification No.09/2023 dated 31.03.2023 to claim enlarged period of limitation but this Notification is called in question.
- The challenge is pending consideration with the Apex Court asserting that in similar circumstances this Court in W.P.No.17774/2026 [*T-RES*] has granted interim order on 16.06.2026.

3. Sri K. Hema Kumar, the learned Additional Government Advocate who is called upon to accept notice for the first, second and fourth respondents, is heard for the disposal of the petition in the light of the following circumstances.

[a] The petitioner is served with the Orders-in Original dated 16.12.2023 by RPAD on 20.12.2023 as observed in the Order-in-Appeal and Order on the rectification application.

[b] The petitioner has filed an appeal under Section 107 of the Act on 18.03.2024. The appellate authority has concluded the proceedings because the Orders-in-Original are uploaded on the website on 16.12.2023.

[c] The petitioner has also accepted the receipt of such communication, and the appeal is presented on 18.03.2024. The appellate authority has opined that hence the appeal is delayed by two days.

[c] The Appellate Authority has referred to certain provisions of the Acts and decisions.

4. This Court must observe that even if the appeal is to be construed as delayed by two days, it would still be within the period in which the delay could be condoned. As such, this Court is of the view that delay of two days in the circumstances could not have been a reason to reject the appeal. Therefore, there must be interference with both the impugned

Orders [*the Order-in-Appeal and on the rectification application*].

5. This Court must next examine whether there should be interference with the Order-in-Original dated 16.12.2023. It is undisputed that the Order-in-original dated 16.12.2023 is an *ex parte* orders, and the Adjudicating Authority has confirmed the demand proposed in the show cause notice because the petitioner has not responded when served with both the intimation in Form GST DRC-01A and the show cause notice in Form GST DRC-01 are sent on its email account.

6. The proceedings are initiated upon ascertaining the details of certain transactions on a third-party portal *viz.*, MGNREGA portal and observing certain discrepancies in the details as available on the website and the details as per GSTR-7 and filed in GSTR-3B. It is stated on behalf of the petitioner that if an opportunity is extended, he can

produce documents which could reconcile the details as filed in GSTR-3B.

7. This Court, in similar circumstances but when this Court's jurisdiction is invoked without filing an appeal, has intervened to restore the proceedings with an opportunity to file a reply and produce documents to justify the declaration in Form GSTR-3B on terms such as the concerned must reply and produce documents within a timeline and deposit 10% of the tax in demand subject to the final outcome. The petitioner in this case has already deposited 10% of the tax in demand while availing the appellate remedy.

8. The circumstances discussed persuade this Court to interfere with the Orders-in-Original. Insofar as the petitioner's grievance with the authorities relying upon the Notification No.09/2023 dated 31.03.2023 to avail extended period of limitation, this Court of the opinion that the petitioner must be reserved with liberty to raise a challenge in

that regard if there is occasion despite due consideration of documents filed upon the restoration of the proceedings in terms of this Order. In the light of the aforesaid, the following:

ORDER

The petition is allowed. The impugned order dated 04.09.2025 [*Annexure-A1*] on rectification, the Order-in-Appeal dated 01.01.2025 [*Annexure-A2*], the Order-in-Original dated 16.12.2023 [*Annexure-A3*], and the Summary of the Order-in-Original dated 16.12.2023 [*Annexure-A4*] are quashed subject to the following terms.

[a] The proceedings are restored to the second respondent for due consideration with an opportunity to the petitioner to file response by ***31.08.2026*** leaving open all the questions to be considered.

[b] The petitioner is permitted to file, along with the certified copy of this Order, the copies of the documents to show the genuineness of the transactions along with the reconciliation, if any.

[c] The petitioner shall produce these documents by ***31.08.2026*** and the second respondent shall consider these documents and then conclude the proceedings by a reasoned order.

Sd/-
(B M SHYAM PRASAD)
JUDGE

SA
Ct:sr