NC: 2026:KHC:34450
WP No. 12616 of 2026

HC-KAR

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 8TH DAY OF JULY, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE B M SHYAM PRASAD**

**WRIT PETITION NO. 12616 OF 2026 (T-RES)**

**BETWEEN:**

SURESH KUMAR GANNA
TRADE NAME M/S. S.K JEWELS,
SON OF SRI. SHANKAR LAL GANNA
AGED ABOUT 54 YEARS,
NO.40, ANJENYA TEMPLE STREET,
CUBBONPETE, BENGALURU
URBAN BANGALORE-560 002.

...PETITIONER

(BY SRI. M.D. MONISH SAWKAR., ADVOCATE A/Witness
MS. BHUMIKA., ADVOCATE FOR
SRI. ANNAMALAI S., ADVOCATE)

**AND:**

1. THE JOINT COMMISSIONER OF
CENTRAL TAXES (APPEALS-1)
BANGALORE, 4TH FLOOR,
TRAFFIC AND TRANSIT
MANGAGEMENT CENTRE,
BMTC BUS STAND,
HAL AIRPORT ROAD, DOMMALURU,
BENGALURU-560 071.

2. THE DEPUTY COMMISSIONER CIRCLE-3
2ND FLOOR, BMTC BUILDING,
KANAKAPURA ROAD, BANASHANKARI,

BENGALURU-560 070.

3. THE SUPERINTENDENT CENTRAL TAX
RANGE DSD-2
SOUTH DIVISION-2
SOUTH COMMISSIONRATE
2ND FLOOR, BMTC BUILDING,
KANAKAPURA ROAD, BANASHANKARI,
BENGALURU-560 070.

...RESPONDENTS

(BY SRI.ARAVIND V HAVAN., ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO I. QUASHING THE ORDER IN APPEAL PASSED BY THE RESPONDENT NO. 1 FOR THE FINANCIAL YEAR 2017-18, 2018-19 AND 2019-20 BEARING NO. APPEAL NO.472/2023 GST JC A-1 HAVING DIN DATED 23.04.2025 NO. 20250157000000081338A DISMISSING THE PETITIONER'S APPEAL FILED BEFORE THE RESPONDENT NO. 1. HEREIN MARKED AS ANNEXURE-A; II. QUASHING THE ORDER IN ORIGINAL PASSED UNDER SECTION 74(9) OF THE GST ACT BY THE RESPONDENT NO.3 FOR THE PERIOD FINANCIAL YEAR 2017-18, 2018-19 AND 2019-20 BEARING NO. ORDER IN ORIGINAL NO. 07/2023-2024-DSD2 DATE OF PASSING 22.09.2023. HEREIN MARKED AS ANNEXURE - B1; III) QUASH THE SUMMARY OF THE ORDER IN FORM GST DRC 07 DATED 06.10.2023 ISSUED BY THE RESPONDENT NO.3 FOR THE FINANCIAL YEARS 2017-18, 2018-19 AND 2019-20 BEARING REFERENCE

NO.ZD291023004967C HEREIN ENCLOSED AND MARKED AS ANNEXURE-B2; IV) QUASH SHOW CAUSE NOTICE ISSUED UNDER SECTION 74(1) OF THE GST ACT DATED 14.06.2022 FOR FINANCIAL YEAR 2017-18, 2018-19 AND 2019-20 BY THE RESPONDENT NO.3 BEARING SCN NO. 83/2022-23 (CTA-1)/SUPDT HAVING DIN NO. 20220657YT000051565A. HEREIN ENCLOSED AND MARKED AS ANNEXURE-C.

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

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

**ORAL ORDER**

The petitioner's grievance is with the Adjudication Order dated 22.09.2023 [*Annexure-B1*] under Section 74(9) of the Central Goods and Services Tax Act, 2017/Karnataka Goods and Services Tax Act, 2017 [for short, *'the Act'*]. This order is for the financial years 2017-18, 2018-19 and 2019-20. The petitioner has filed an appeal against this order in appeal No.472/2023 GST JC A-1, and the appeal is rejected by the next impugned order dated 23.04.2025 [*Annexure-A*].

2. The Appellate Authority, referring to the Circular No.183/15/2022-GST, has observed that though the petitioner could justify the difference between the details in GSTR-2A and GSTR-3B, it has not complied with conditions of this Circular. However, Mr. M. D. Monish Sowkar, the learned counsel for the petitioner, submits that he would request this Court's interference with the Order-in-Appeal and the Adjudication Order on the ground that the petitioner, being a *bona fide* recipient, is entitled to produce documents to justify a reconsideration in the light of the decision of this Court in Writ Petition No.4917/2021[1] [***M/s Instakart Services Pvt. Ltd. V. Union of India and others].***

3. Sri Aravind V. Chavan, a learned standing counsel for the respondents, is heard in the light of the following two circumstances.

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[1] *This Court's order is dated 09.02.2026*

***[I]*** The petitioner, who has deposited 10% of the tax in demand while availing the appellate remedy, has remitted the tax after this Court's order on 09.02.2026 in W.P.No.4917/2021.

***[II]*** The reason for commencement of the proceedings is alleged excess ITC claimed for the year 2017-18.

4. The petitioner's case is that this excess ITC, which is claimed *bona fide,* is duly reversed by the petitioner as could be seen in the GSTR returns filed in September 2018. The petitioner essentially relies upon these circumstances to assert that he is a *bona fide* recipient and that the mismatch is only because of an alleged excess claim. This Court is of the view that these circumstances must be considered in the light of the decision of this Court's decision in ***M/s Instakart Services Pvt. Ltd. V. Union of India and others*** [*supra*] to read down the

provisions of Section 16(2)(c) of the Act. Hence the following:

**ORDER**

The petition is allowed and the Order-in-Appeal dated 23.04.2025 [*Annexure-A*], the Adjudication Order dated 22.09.2023 [*Annexure-B1*], and the Summary of the Order dated 06.10.2023 [*Annexure-B2*] are quashed subject to the following terms.

***[a]*** The proceedings under the Show Cause Notice dated 14.06.2022 [*Annexure-C*] are restored to the third respondent for due consideration.

***[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 third respondent shall consider these documents and then conclude the proceedings by a reasoned order.

**Sd/-**
**(B M SHYAM PRASAD)**
**JUDGE**

SA
Ct:sr