Case Citation: (2026) taxcode.in 1475 HC

HC-KAR

NC: 2026:KHC:42886
WP No. 24780 of 2026

CNR: KAHC010547752026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 24780 OF 2026 (T-RES)

BETWEEN:

M/S. ZEAL GROUP
2/45, DINNUR MAIN ROAD,
BENGALURU - 560032
A SOLE PROPRIETORSHIP
BUSINESS ENTITY,
REP. BY SHAIRAKHAN SHAKIRA KHANNUM
RESIDING AT NO.80,
2ND A CROSS, SULTHAN PALAYA,
BENGALURU, KARNATAKA 560032.

...PETITIONER

(BY SRI. BHAGAVATH P., ADVOCATE)

AND:

DEPUTY COMMISSIONER
OF COMMERCIAL TAXES (AUDIT)-5.9,
VTK-2 A-BLOCK 4TH FLOOR,
ROOM NO-416,
KORAMANGALA, BENGALURU-560047

...RESPONDENT

(BY SRI. K. HEMA KUMAR, AGA)

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE ORDER(S), DIRECTION(S), WRIT CERTIORARI

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QUASHING THE ORDER-IN-ORIGINAL DGSTO-5/DC-5.9/ADJ-323/25-26 DATED 30.12.2025 ENCLOSED AS ANNEXURE-A, TO THE EXTENT PRE-JUDICIAL TO THE PETITIONER. B) QUASHING THE SUMMARY ORDER IN FROM DRC -07 BEARING REFERENCE NO. ZD2912252279633 DATED 30.12.2025, ENCLOSED AS ANNEXURE-A1, TO THE EXTENT PRE-JUDICIAL TO THE PETITIONERC. C) DIRECTING THE RESPONDENT TO ADJUDICATE THE MATTER AFRESH AFTER AFFORDING THE PETITIONER A REASONABLE AND EFFECTIVE OPPORTUNITY OF PERSONAL HEARING, DULY CONSIDERING THE REPLIES FILED BY THE PETITIONER TOGETHER WITH ALL DOCUMENTARY EVIDENCE AND SUBMISSIONS, AND THEREAFTER PASS A REASONED AND SPEAKING ORDER IN ACCORDANCE WITH LAW. D) TO ISSUE ORDER(S), DIRECTIONS, WRIT(S) IN THE NATURE OF MANDAMUS HOLDING THAT NO INTEREST AND PENALTY IS PAYABLE BY THE PETITIONER UNDER THE IMPUGNED ORDER ENCLOSED AT ANNEXURE-A. E) TO ISSUES ORDER(S), DIRECTIONS, WRIT(S) OR ANY OTHER RELIEF AS THIS HON'BLE COURT DEEMS IT FIT AND PROPER IN THE FACTS AND CIRCUMSTANCE OF THE CASE IN THE INTEREST OF JUSTICE.

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 30.12.2025 [*Annexure-A*] and the Summary of such Order [*Annexure-A1*]. The Adjudication order/ Summary is for the period between April 2021 to March 2022. The Adjudication Order is premised in the assertion that the Show Cause Notice is issued to the petitioner, but it has failed to file a response.

2. Sri Bhagavath P., the learned counsel for the petitioner, submits that the proceedings are concluded because of a mismatch between the *Input Tax Credit* paid and the details in Forms GSTR-3B and GSTR-2A and that the petitioner could not respond to either the intimation in Form GST DRC-01A or to the Show Cause Notice in Form GST DRC-01. The learned counsel invites

this Court's attention to the following averment in the memorandum of petition.

> *"The petitioner submits that the Show Cause Notice was not effectively responded to. The petitioner could not notice the Show Cause Notice uploaded on the GST portal and consequently could not submit a detailed reply explaining the factual position together with the supporting records.*
>
> *Thereafter the Respondent issued three reminder notices dated 14.05.2025, 10.07.2025, and 06.12.2025. As these reminders were uploaded only on the GST portal, they inadvertently went unnoticed by the petitioner. Consequently, the Petitioner was unable to submit a proper reply or appear for the personal hearing in the present proceedings."*

3. Sri. Bhagavath P. also submits that this Court [in WP No. 4917/2021[1] - ***M/s Instakart Services Pvt. Ltd. V. Union of India and others***] has read down Section 16[2][c] of the CGST/

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

KGST Act, 2017 and Rule 36[4] of the CGST/ KGST Rules, 2017 allowing the benefit of ITC to bonafide recipients/RTP provided that such recipient/person has complied with all conditions under these provisions even of there is any default by a supplier.

4. Sri K Hema Kumar, a learned Additional Government Advocate for the respondent, is heard for the disposal of the petition. The learned Additional Government Advocate submits that the Union of India has filed an intra- court appeal as against the decision in ***M/s Instakart Services Pvt. Ltd. V. Union of India and others*** [*supra*] and that State Government also proposes to file its own appeal. The learned Additional Government Advocate emphasizes that the question whether there could be reading down of the afore provisions is thus still at large.

5. This Court, in the circumstances, examines whether the petitioner must be admitted to another reasonable opportunity based on the peculiarities of the case. The respondent has referred to the Show Cause Notice in GST DRC-01 dated 23.07.2024 being uploaded on the common portal according to the Act without mentioning the other modes of communication of the Show Cause Notice. The respondent has also referred to an opportunity of personal hearing being extended to the petitioner observing that the petitioner has not availed this opportunity but without further details of the opportunity so extended. The relevant part of the Adjudication Order read thus.

> *"In view of natural justice three opportunities of time and personal hearing was offered vide ref (3,4 and 5). Further all the correspondence was done through GST common portal which enables the RTP to view the notices or correspondence done on their personal dashboard. However the*

RTP has not responded. In addition, an email was also sent to the registered email address vide reference (6).

Despite receipt of the show cause notice, the Designated Authorized Representative (DAR) of the taxpayer failed to file any reply. The undersigned also sent communications to the authorized email address and contacted the authorized mobile number as uploaded on the portal. However, no response was received and no reply was submitted."

6. The petitioner contends that the *mismatch* between Forms GSTR-3B and GSTR-2A can be explained with the support of the documents, When all the circumstances are considered, this Court is of the view that the petition must be disposed of extending another opportunity to the petitioner without expressing any view on reading down Section 16[2][c] of the CGST/ KGST Act, 2017 and Rule 36[4] of the CGST/ KGST Rules, 2017. Hence, the following

ORDER

The petition is allowed and the Adjudication Order dated 30.12.2025 *[Annexure-A]* and Summary of the Order dated 30.12.2025 [*Annexure-A1*] are quashed subject to the following terms.

[a] The proceedings are restored to the respondent for due consideration subject to the petitioner depositing 10% of the tax in demand by ***30.09.2026*** subject to the outcome in the restored proceedings.

[b] The petitioner is permitted to file a response to the Show Cause Notice along with a certified copy of this Order and the copies of the documents to show the

genuineness of the transactions along with the reconciliation.

[c] The petitioner shall produce these documents by ***30.09.2026*** and the respondent shall consider these documents and then conclude the proceedings by a reasoned order.

Sd/-
(B M SHYAM PRASAD)
JUDGE

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List No.: 2 Sl No.: 38