HC-KAR

NC: 2026:KHC:53393-DB
WA No. 136 of 2026

CNR: KAHC010030632026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT APPEAL NO. 136 OF 2026 (GM-RES)

BETWEEN:

1. THE EXECUTIVE ENGINEER
K.S.R.T.C, BEHIND BALABHAVAN
BANNIMANTAPA
MYSORE - 570 004

2. THE EXECUTIVE ENGINEER
KSRTC CIVIL DIVISION
GUBBIVEERANA KALASKSHTRA ROAD
KSRTC TUMKUR OLD BUS STATION
TUMKUR - 572 101

...APPELLANTS

(BY SRI PRADEEP DARAK, ADVOCATE)

AND:

1. M/S APOORVA CONSTRUCTIONS CO.,
A PARTNERSHIP FIRM HAVING ITS OFFICE
(REGISTERED U/S 58 (1) OF
INDIAN PARTNERSHIP ACT, 1932)
AT GROUND FLOOR, NO. 68786
3RD MAIN, JAYANAGAR (EAST)
TUMAKURU - 572 102
REPRESENTED BY ITS PARTNER
SRI PALAKSHAIAH

2. STATE OF KARNATAKA
DEPARTMENT OF FINANCE

2ND FLOOR, VIDHAN SOUDHA
DR. AMBEDKAR VEEDHI
BENGALURU - 560 001
REPRESENTED BY ITS
ADDITIONAL CHIEF SECRETARY

3. THE EXECUTIVE DIRECTOR
KARNATAKA RESIDENTIAL EDUCATIONAL
INSTITUTIONS SOCIETY (KREIS)
6TH AND 7TH FLOOR
CUNNINGHAM ROAD
BENGALURU - 560 052

4. THE EXECUTIVE ENGINEER
KARNATAKA STATE POLICE
HOUSING AND INFRASTRUCTURE
DEVELOPMENT CORPORATION
NO.59, RICHMOND ROAD
(GEN. K.S. THIMMAIAH ROAD)
BENGALURU - 560 025

5. THE SUPERINTENDENT ENGINEER (TECH)
MESCOM, MANGALORE - 575 004

6. THE EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT
CHITRADURGA - 577 501

...RESPONDENTS

(BY SRI D.R. RAVISHANKAR, SENIOR ADVOCATE A/W
SRI NAVEEN G.S., ADVOCATE FOR R-1 &
SRI K.S. HARISH, GOVERNMENT ADVOCATE FOR R-2)

THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO ALLOW THE WRIT APPEAL & SET ASIDE THE JUDGMENT DATED 16.09.2025 PASSED IN W.P.No.28 OF 2024 IN SO FAR AS THE APPELLANTS ARE CONCERNED & ETC.

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. The Executive Engineer, Karnataka State Road Transport Corporation [**KSRTC**] has filed the present appeal impugning an order dated 16.09.2025 [**impugned order**] passed by the learned Single Judge of this Court in Writ Petition No.28/2024 (GM-RES).

2. The respondent No.1, M/s Apoorva Constructions Co. [**ACC**], had filed the said writ petition, *inter alia*, praying as under:

> "a) Issue a writ or such other order in the nature of Mandamus directing the Respondents to refund the differential GST amount paid by the Petitioners for the works executed by each of the Petitioners respectively, as per the representations dated 02.08.2022, 16.06.2023, 17.06.2023, 20.09.2023 and 30.09.2023 etc., given by the Petitioners-Contractors to respective Respondent-employers (as per the abstract Annexed) and produced at Annexure-B to B4.
>
> (a) Issue a writ or such other order directing the Respondent No.1-State Govt. to issue a circular/policy to address the issue of payment of

> GST on works contract which are executed under VAT regime or under old Schedule of Rates wherein, GST is not paid by the Respondent-Employers but is levied and paid by the Petitioner-Contractors to the GST department.
>
> (b) Pass such other orders as may be deemed appropriate under the circumstances of the case, in the ends of justice."

3. ACC stated that it had entered into various contracts with various authorities/corporations including the appellants-KSRTC, who arrayed as respondents in the writ petition.

4. The ACC did not produce any of the separate contracts entered into with the said respondents. However, it had enclosed an annexure listing out the works with the authorities in respect of which separate contracts were entered into.

5. The said contracts were entered into between 2017 and 2019. The ACC had averred in the writ petition that the contracts could be classified into three categories: Category-A being the agreements entered into prior to 01.07.2017; Category-B being the agreements entered into after 01.07.2017, but pursuant to tenders invited prior to the said date; and Category-C being agreements and contracts finalised after 01.07.2017 but on the basis of the old SR rates.

6. According to the ACC, it would be entitled to reimbursement of additional payment and tax paid on account of levy of Goods and Service Tax [**GST**].

7. The learned Single Judge, without adverting to the facts in the present case or referring to any other contractual provisions, allowed the writ petition by following an earlier decision in the case of **Sri Chandrashekaraiah and others v. The State of Karnataka and others**[1].

8. The learned Single Judge referred to paragraph 18 of the said decision and observed as under:

> "What is discernible from paragraph 18 of the said order and the operative portion is that whether contracts that were entered into prior to the GST regime and the work is completed post GST regime, but payments are made post GST or contracts entered into prior to 01.07.2017, but partly executed and balance work executed post GST and all other incidental issues have been decided. The decision is direction for payments of refund of GST, without any verification."

9. After noting the above, the court passed the order in similar terms as in **Sri Chandrashekaraiah and others v. The State of**

[1] W.P.No.9721/2019(T-RES) and other connected matters disposed on 11.04.2023

Karnataka and others (supra). The operative part of the order is set out below:

> "(i) Writ petition is disposed of.
>
> (ii) The Respondents-State and other Govt. agencies/Respondents who have entered into works contract with the petitioner are issued the following directions/guidelines:-
>
> (a) Calculate the works executed pre-GST (prior to 01.07.2017) under KVAT regime and payments received by the petitioner.
>
> (b) The payments received by the petitioner 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 petitioner 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 Petitioner is 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) Petitioner is 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 petition, the petitioner if he had not filed his GST returns during the period after 01.07.2017 is permitted to file his 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 petitioner 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 petitioner 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."

All contentions of both the parties shall remain open."

10. KSRTC states that it is a statutory public transport undertaking constituted under the Road Transport Corporation Act, 1950.

11. KSRTC further states that during the period from 2017 and 2019, it had floated separate tenders for construction of bus terminals at Kollegala Phase-I, Kollegala Phase-II, Holalkere Phase-I and Holalkere Phase-II. The tenders for construction of terminals at Kollegala Phase-I and Holalkere Phase-I were floated prior to the enactment of the Central Goods and Services Tax Act, 2017 and Karnataka Goods and Services Tax Act, 2017 [Collectively referred to as **the GST Act**] coming into force.

12. It is further stated that the notices inviting tenders for Kollegala Phase-I and Holalkere Phase-I expressly provided as under:

> "Kollegala Phase -I project:
>
> "6. The quoted rates of the bidder is inclusive of all applicable taxes, surcharges, service taxes, income tax, sales tax, construction workers benevolent fund, labor cess etc. statutory in nature and will be applicable for recoveries of any sort that may come into force at the time of payment of bills, till completion of work"
>
> Holalkere Phase-I Project:
>
> "37. Rate inclusive of all statutory recoveries - The rates quoted by the bidder shall be inclusive of all statutory recoveries such as income tax, commercial tax, sales tax on turnover, quarry fees, work contract tax, octeri, duties, royalties, freight charged, ground rent, etc., Taxes, duties etc., enforced subsequently shall be borne by the tenderer."

13. As stated above, in respect of the projects Kollegala Phase-II and Holalkere Phase-II, the tenders were invited after the GST Act came into force. It is stated that tenders of Kollegala Phase-II expressly provided as under:

> "Kollegala Phase - II Project:
>
> "44. The quoted rates of the bidder is inclusive of all applicable taxes such as surcharges, GST, income tax, sales tax, construction workers benevolent fund, labor cess etc. statutory in nature and will be applicable for recoveries of any sort that may come into force at the time of payment of work bills"

14. The appellants further state that respondent No.1 ACC issued invoices that explicitly reflected GST at the applicable rates.

15. KSRTC contends that ACC was fully aware of the levy of GST and that the rates quoted were inclusive of the said tax, and therefore it raised the bills accordingly.

16. It is also contended that these bills were paid and ACC accepted the payments without reservation. However, notwithstanding the same, ACC sent letters dated 02.08.2022 and 17.06.2023 claiming differential GST. KSRTC had rejected the said claims. In this context, the ACC filed the writ petition.

17. The KSRTC filed its statement of objections raising several contentions including that the contractual clauses in respect of the tenders floated for Kollegala Phase-I, Kollegala Phase-II, Holalkere Phase-I and Holalkere Phase-II expressly provided that the rates would be inclusive of GST. However, the learned Single Judge did not advert to the relevant facts and passed the order mechanically, following the earlier decision in **Chandrashekaraiah** (*supra*).

18. The learned Senior Counsel appearing for the ACC submits that although the writ petition did not enclose therewith the documents, ACC's claim was based on the premise that it is entitled to the "differential GST" as the contract price tendered by it

was premised on the basis of the old Schedule of Rates which did not factor in GST. He also submitted that the Bombay High Court has taken a similar view in M/s **Indu Construction v. Nagpur Improvement Trust and others**[2].

19. It is apparent from the above that the ACC's claim is that, notwithstanding that the contract expressly provided that the rates were inclusive of all taxes, it would be entitled to an additional payment on account of change in law.

20. Clearly the disputes in the present case cannot be decided in a vacuum without reference to the relevant facts regarding each contract. In the present case, the learned Single Judge has not considered all the relevant contracts.

21. It is also relevant to note that the Tax authorities have also filed appeals against the blanket orders that were passed following the decision of **Sri Chandrashekaraiah** (*supra*) on the ground that the directions run contrary to the relevant statutes, in as much as it directs the tax authorities to reimburse differential tax and/or accept revised returns.

[2] W.P.No.1867/2023 disposed on 16.07.2026

22. The objections raised by the KSRTC that the ACC's claims were an afterthought, is also required to be considered.

23. Plainly such contractual disputes cannot be examined in a vacuum as has been done by the learned Single Judge. Additionally, it would also be relevant to examine whether the bills raised by ACC for the work done after 01.07.2017 included an element of GST which ACC now seeks to recalculate.

24. It would be inapposite for this Court to examine these disputes in a proceedings under Article 226 of the Constitution of India. Accordingly, we allow the present appeal and set aside the impugned order so far as it concerns the KSRTC.

25. Although we are inclined to set aside the order in respect of other respondents as well, we refrain from doing so as some of them may have accepted the impugned order. In this view, we limit this order to setting aside the impugned order only in respect of the appellant, KSRTC. However, we clarify that this order does not preclude the other respondents from assailing the impugned order, provided they do so in accordance with law. ACC is also not precluded from availing its remedies.

26. The appeal is allowed in the aforesaid terms.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(K.S. HEMALEKHA)
JUDGE

KMV
List No.: 2 Sl No.: 0