



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 8342 OF 2026 (T-RES)

BETWEEN:

M/S. DHRITI PROPERTIES,
A PARTNERSHIP FIRM
REPRESENTED BY ITS
DULY AUTHORISED MANAGER,
SRI. KICHILI HARINATH,
S/O K. VISHWANATH REDDY,
AGED ABOUT 34 YEARS,
FIRST FLOOR, NO.19, K NO. 13,
JCR LAYOUT, 2ND CROSS ROAD,
PANATHUR, BENGALURU-560103,
GSTIN 29AAKFD7191B1ZB.

...PETITIONER

(BY SRI. VENKATESH G.,ADVOCATE)

AND:

THE DEPUTY COMMISSIONER OF COMMERCIAL
TAXES, (AUDIT-4.1) ,
NO. 601, 6TH FLOOR, BMTc DEPOT,
TTMC BUILDING, NEAR SONY SIGNAL,
KORAMANGALA, BANGALORE - 560095.

...RESPONDENT

(BY SMT. JYOTHI M. MARADI, HCGP)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF
CERTIORARI OR DIRECTION IN THE NATURE OF A WRIT OF





CERTIORARI QUASHING THE ORDER OF ADJUDICATION ALONG WITH THE SUMMARY OF THE ORDER IN FORM GST DRC-07 DATED 03.12.2025 BEARING NO. DCCT(AUDIT)-4.1/GST-ADJ/2025-26 PASSED BY THE RESPONDENT FOR THE TAX PERIOD APRIL 2021 TO MARCH 2022, HEREIN ENCLOSED AND MARKED AS ANNEXURE-A1 AND ETC.,

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

CORAM: HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

ORAL ORDER

The petitioner has sought for setting aside the order of adjudication as also the summary of the order passed by respondent to the tax period April-2021 to March 2022. The petitioner has sought for certain allied reliefs as well including setting aside of notice to a third person.

2. Learned counsel for the petitioner submits that the order of adjudication has been passed on the premise of wrong availment and utilisation of ITC, excess availment of ITC and short declaration of turnover on the other grounds. It is submitted that though the tax payer has filed a reply, however thereafter an opportunity of personal hearing was not afforded. It is submitted that if



the matter is remitted to the stage of affording opportunity of personal hearing, petitioner would place before the authority necessary records that would enable the authority to satisfy itself regarding the response of the petitioner.

3. Perused the order of adjudication at Annexure-A1. The authority has noticed the aspects relating to short declaration of turnover, excess availment of ITC, wrong availment and utilization of input tax credit in the absence of original purchase invoices.

4. The authority has observed that the petitioner, though afforded an opportunity of personal hearing has failed to take the benefit of such opportunity. It is to be noticed that the issues raised are factually dense and require furnishing of necessary records. In fact, the authority in the order impugned has made certain observations which indicate that the petitioner ought to



have produced certain records. Observations made are as follows:

"The taxpayer has merely asserted that the receipts represent loans and advances; however, no documents such as loan agreements, board resolutions, confirmation of parties, partner capital account extracts, repayment schedules, bank loan correspondence, or any ledger substantiating the existence of such loan transactions have been submitted. In terms of Section 35(1) read with Rule 56 and Rule 57 of the CGST Rules, every registered person is required to maintain true and correct accounts, including records of receipts, ledgers, and supporting documents for all financial transactions. The taxpayer has failed to produce these mandatory records during adjudication.

Further, in terms of Section 35(1) read with Rule 56 and Rule 57, the taxpayer is required to maintain and produce complete and verifiable records such as invoice-wise ITC ledgers, GSTR-2B reconciliation, supplier-wise compliance extract, payment proof, and receipt evidence. These mandatory records have not been provided. Merely submitting an ITC register without corroborating documents does not satisfy the burden of proof under Section 155, which lies entirely on the taxpayer.

The discrepancies highlighted in the audit report, including excess availment of ITC over and above GSTR-2B and ineligible ITC claimed, remain unreconciled and unsubstantiated. The explanation furnished is, therefore, not acceptable, and the audit finding is found to be correct, valid, and legally sustainable. Accordingly, the taxpayer's reply stands rejected, and the proposed reversal of excess ITC



along with interest under Section 50(1) and penalty under Section 122(1)(i) is confirmed."

5. Though learned High Court Government Pleader would contend that once reply is made to the show-cause notice, non-furnishing of documents is a lapse on the part of the assessee and the authority has rightly drawn an adverse inference for non-furnishing of documents. However, it would be appropriate that an opportunity is granted to the petitioner to produce the documents, in light of the observations made in the order itself to the effect that the petitioner has not discharged the burden of proof as imposed under Section 155. Accordingly, the order at Annexure- A1 which is the order of adjudication dated 03.12.2025 is set-aside. The matter is remitted for re-consideration before the respondent. The petitioner to produce relevant documents as are necessary to make out his case taking note of the observations made in the impugned order of adjudication which are extracted above.



6. It is needless to state that the burden is on the petitioner to demonstrate and make out his case by way of reliance on the appropriate documents. Accordingly, the authority upon appearance of the petitioner, may afford an opportunity of personal hearing and the petitioner may produce such records as may be necessary to make out his case. Accordingly, the following;

ORDER

(i) The writ petition is ***disposed of***.

(ii) The order at Annexure-A1 is set-aside.

(iii) The matter is remitted back to the respondent. The petitioner to appear without fresh notice on 18.05.2026.

(iv) The petitioner to pay costs of Rs.15,000/- to the Karnataka Advocate's Clerks Benevolent Trust, High Court Building, Bengaluru.



(i) Annexure-A2 is set aside as well. In the light of setting-aside of the order at Annexures - A1 and A2, the recovery proceedings as reflected in Annexure-B are set-aside.

Sd/-
(S SUNIL DUTT YADAV)
JUDGE

MCR,GH