IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 7613 OF 2026 (T-RES)

BETWEEN:

1. M/S B S BURRAQ ALUMIN ALLOYS
   A PARTNERSHIP FIRM, NO.19/1
   CHINNASWAMY MUDALIAR ROAD
   TASKER TOWN, BENGALURU 560 051
   REPRESENTED BY ITS PARTNER
   MR. MOHAMMED UMER PASHA
   S/O GULAB PASHA
   AGED ABOUT 36 YEARS
   RESIDING IN THE ABOVE ADDRESS.

…PETITIONER

(BY SRI. R OMKUMAR., ADVOCATE)

AND:

1. THE COMMISSIONER OF CENTRAL TAX
   GST COMMISSIONERATE
   BENGALURU APPEALS-1
   14TH FLOOR, TRAFFIC AND TRANSIT
   MANAGEMENT CENTRE,
   BMTC BUS STAND, HAL AIRPORT ROAD,
   DOMMALURU, BENGALURU 560 071.

2. THE ADDITIONAL COMMISSIONER
   OF CENTRAL TAX
   BENGALURU SOUTH COMMISSIONERATE,
   CR BUILDING, QUEENS ROAD,
   BENGALURU - 560 001.

3. THE SUPERINTENDENT OF CENTRAL TAX
   LVO 110, RANGE BSD-1,
   SOUTH DIVISION-1,

BENGALURU SOUTH COMMISSIONERATE,
BENGALURU-560 001.

...RESPONDENTS

(BY SRI. AKASH B SHETTY., ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDERS PASSED BY THE RESPONDENTS NO.1 AND 2 AS PER ANNEXURE A, ORDER IN ORIGINAL B ORDER IN NO.08/2023 (GST-ADC) AND ANNEXURE-B ORDER IN APPEAL NO.08/2025-26 GST COMMR A-1, IN THE INTEREST OF JUSTICE AND EQUITY.

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

Petitioner has challenged the order passed by respondent No.1 at Annexure-A which is the order-in-original, whereby the Authority has adjudicated the case observing that the taxpayer failed to make out reply to the show cause notice and proceeded to complete the adjudication on the basis of records and material available. The authority has recorded a finding regarding wrongful availment of input tax credit.

2. Petitioner submits that the said order was taken up before the appellate authority and in the appeal

proceedings, though an opportunity of personal hearing was provided, petitioner not having availed of the same, the Authority was constrained to record a finding that the order in original does not require interference. The appellate authority has reiterated that no documentary evidence was furnished to establish the bonafides of the claim of the petitioner.

3. Learned counsel for the petitioner submits that as the order in original itself is an ex-parte order, petitioner was unable to substantiate in appeal proceedings and requests that petitioner's absence of participation in the proceedings before the assessing authority may be condoned and the matter be remitted for fresh consideration. It is further submitted that the appellate authority confirms the order-in-original and unless the petitioner is granted an opportunity before the assessing officer to make out reply to the show cause notice, there would be no purpose served by remitting the matter merely to the appellate authority.

4. Accordingly, it is submitted that the order in original as well as the order of the appellate authority be set aside and the matter be remitted to the stage of reply to the show cause notice.

5. Learned counsel appearing for the Revenue would submit that the petitioner is not diligent in prosecuting the proceedings and that the petitioner needs to be put on terms if the matter is to be remitted.

6. Learned counsel for the petitioner submits that an amount of Rs.32,40,896/- has already been remitted pursuant to the ex-parte order and the said amount deposited may be taken note of.

7. In light of the order-in-original being an ex-parte order and also noticing that before the appellate authority also, in effect the proceedings were ex-parte due to non-participation of the petitioner at the subsequent stages, it would be appropriate to set aside the impugned orders.

8. Accordingly, the orders Annexures-A and B are set aside and the matter is remitted to the stage of reply to the show cause notice before the assessing authority. The amount of Rs.32,40,896/- paid pursuant to the impugned orders, shall be subject to the result of adjudication.

9. Petitioner to appear before respondent No.3 without further notice on 22.04.2026. All contentions are kept open.

10. Accordingly, petition is ***disposed of***.

SD/-
(S SUNIL DUTT YADAV)
JUDGE

VP