NC: 2026:KHC:17196-DB
STRP No. 35 of 2025

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

SALES TAX REVISION PETITION No. 35 OF 2025

BETWEEN:

1. M/S DHRUVA ENTERPRISES,
No. 11-1128/996,
HIGHER ELEMENTARY SCHOOL ROAD,
PUTTUR (DK)-
(REP. BY ITS PARTNER
MR. RAGHUVEER PRABHU)

...PETITIONER

(BY SRI. K M SHIVAYOGISWAMY, ADVOCATE)

AND:

1. THE JOINT COMMISSIONER OF
COMMERICAL TAXES (APPEALS),
II FLOOR, VT BHAVAN, MAIDAN ROAD,
MANGALORE - 575 001.

2. THE DEPUTY COMMISSIONER OF
COMMERCIAL TAXES (AUDIT)-1,
II FLOOR, VT BHAVAN, MAIDAN ROAD,
MANGALORE - 575 001.

...RESPONDENTS

(BY SRI. ADITYA VIKRAM BHAT, AGA)

THIS STRP IS FILED UNDER SECTION 65(1) OF THE KARNATAKA VALUE ADDED TAX ACT, 2003 AGAINST THE JUDGMENT DATED 13.11.2024 PASSED IN STA.No.672 AND 673/2016 ON THE FILE OF KARNATAKA APPELLATE TRIBUNAL AT BANGALORE, PARTLY ALLOWING THE APPEALS AND SET ASIDE THE ORDER DATED 20.06.2016 PASSED IN KVAT/AP/395/2014-15 ON THE FILE OF JOINT COMMISSIONER OF COMMERCIAL TAXES (APPEALS) MANGALURU, DISMISSING THE APPEAL AND FILED AGAINST THE RE-ASSESSMENT ORDER PASSED BY DEPUTY COMMISSIONER OF COMMERCIAL TAXES (AUDIT-1), MANGALURU FOR THE PERIODS 2007-08.

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

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE K. V. ARAVIND

ORAL ORDER

(PER: HON'BLE MR. JUSTICE K. V. ARAVIND)

Heard Sri K.M. Shivayogiswamy, learned counsel for the petitioner and Sri Aditya Vikram Bhat, learned Additional Government Advocate for the respondents.

2. This Sales Tax Revision Petition is filed by the assessee, assailing the order dated 13.11.2024 passed in STA No.672 & 673/2016 by the Karnataka Appellate Tribunal, Bengaluru (for short, “the Tribunal”).

3. The petitioner is a partnership firm registered under the Karnataka Value Added Tax Act, 2003 (for short, "KVAT Act"), engaged in the business of trading in iron ore fines. Upon verification of the books of account, the adjudicating authority noticed discrepancies in the claim of deemed exports and accordingly computed the tax liability, along with interest and penalty. The appeal preferred by the dealer before the First Appellate Authority came to be rejected. The further appeal before the Tribunal also resulted in dismissal under the impugned order.

4. Sri Shivayogiswami, learned counsel for the petitioner, submits that the petitioner has fulfilled the conditions stipulated under Section 5(4) of the Central Sales Tax Act, 1956 (for short, "CST Act"), in support of the exemption claimed. It is contended that the agreement dated 01.01.2008 entered into between the petitioner and the exporter, along with supporting documents such as sale bills, bill of lading, export invoice, export agreement, and Form H issued by the exporter, were duly produced.

4.1 It is further submitted that the purchase agreement establishes the requisite link/nexus between the goods and the export transaction. Learned counsel also contends that non-production of the agreement entered into between the Indian exporter and the foreign buyer would not, by itself, disentitle the petitioner from claiming exemption under Section 5(3) of the CST Act. Learned counsel further submits that the findings recorded by all the authorities, including the Tribunal, are without application of mind and without due consideration of the conditions stipulated under Section 5(4) of the CST Act.

5. Sri Aditya Vikram Bhat, learned Additional Government Advocate appearing for the respondents, while supporting the impugned order, submits that there is no material to establish that the supply was effected pursuant to a pre-existing export order. It is contended that, to claim the benefit under Section 5 of the CST Act, there must exist a prior export order, and the purchases by the exporter must be in furtherance of such export obligation. In the absence of any such export agreement or order, it is submitted that all the authorities were justified in

holding that the petitioner is not entitled to the benefit under Section 5 of the CST Act.

6. Having considered the submissions made by learned counsel for the parties, we are not inclined to entertain this revision petition for the reasons below.

7. Section 5 of the CST Act reads as under;

> *"**5. When is a sale or purchase of goods said to take place in the course of import or export.—***
>
> *(1) A sale or purchase of goods shall be deemed to take place in the course of the export of the goods out of the territory of India only if the sale or purchase either occasions such export or is effected by a transfer of documents of title to the goods after the goods have crossed the customs frontiers of India.*
>
> *(2) A sale or purchase of goods shall be deemed to take place in the course of the import of the goods into the territory of India only if the sale or purchase either occasions such import or is effected by a transfer of documents of title to the goods before the goods have crossed the customs frontiers of India.*
>
> *(3) Notwithstanding anything contained in sub-section (1), the last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of the territory of India shall also be deemed to be in*

the course of such export, if such last sale or purchase took place after, and was for the purpose of complying with, the agreement or order for or in relation to such export.

(4) The provisions of sub-section (3) shall not apply to any sale or purchase of goods unless the dealer selling the goods furnishes to the prescribed authority in the prescribed manner a declaration duly filled and signed by the exporter to whom the goods are sold in a prescribed form obtained from the prescribed authority.

(5) Notwithstanding anything contained in sub-section (1), if any designated Indian carrier purchases Aviation Turbine Fuel for the purposes of its international flight, such purchase shall be deemed to take place in the course of the export of goods out of the territory of India.

*Explanation — For the purposes of this sub-section, "designated Indian carrier" means any carrier which the Central Government may, by notification in the Official Gazette, specify in this behalf.***"**

7.1 In view of sub-section (3) of Section 5 of the CST Act, the sale or purchase must be effected for the purpose of complying with an agreement or order, or in relation to such export. On a plain reading of sub-section (3), it is clear that the supply by the petitioner must be in pursuance of, and for compliance with, the agreement or order for export.

7.2 A beneficial reference may be made to the judgment of this Court in ***M/s. Sandoz Private Limited vs. State of Karnataka*** in ***STRP No. 42/2022***, decided on 04.03.2025, wherein it is held as under:

> *"5. The fact matrix that would fit into the precincts of sub-section (3) of Sec.5 can be illustrated thus: 'A' is the Assessee; 'B' is his buyer and 'C' being the vendee intends to export the goods in question. If 'A' wants to claim exemption/concession from tax, first he has to ensure that there exists an agreement or a purchase order between 'B' and 'C'; further the sale transaction of 'A' is intended to effectuate or has thick nexus with the transaction between 'B' and 'C'. In other words, if the transaction between 'A' and 'B' has nothing to do with the transaction between 'B' and 'C', sub-section (3) is not attracted. Added, this sub-section r/w Rule 12(10)(a) of the Rules coupled with Form-H prescribes the nature of evidentiary material to vouch transactions of the kind. To put it succinctly, mandate of law in this regard is both substantive & evidentiary. It hardly needs to be stated that the provisions of tax law should be literally construed, subject to all just exceptions.*
>
> *6. Sub-section (3) of Sec.5 of the Act r/w Rule 12(10(a) of the subject rules, which is much pressed into service*

by both the sides has been construed by the Coordinate Bench in A.R.ASSOCIATES supra wherein paragraphs 3 & 4 read as under:

> *"3. We have carefully assessed the rival contentions and we do find on a perusal of the requirements of section 5(3) of the Central Sales Tax Act read with rule 12(10)(a) of the Central Sales Tax (Registration and Turnover) Rules that it is insufficient for the assessee to merely produce the form H and the bill of lading because the most important evidence that is required to be produced as per the requirements of law is the export agreement. The purpose behind the insistence on this provision is in order to ensure that there was not only in existence a valid agreement for export and an order but also to be able to identify the particular export goods and to establish a link or nexus between those goods and the export agreement. In this background there can be no question of either a waiver or a concession being made in so far as the law postulates certain requirements and the nonfulfilment of those requirements will be fatal to the case of the assessee in question. It is not sufficient for an assessee to establish that some exports have taken place or that certain goods had been sold to the export house because the law goes a little further in ensuring that the consignment had in fact left the territory of India, being part of an export consignment and it is only when this last ingredient is fulfilled that the privilege of exemption can be granted. We see no ground on which the revisional order can therefore be interfered with.*
>
> *4. At this stage, the appellants' learned counsel submitted that the appellants did not appear before the revisional authority,*

> *that a default had taken place and that they should be afforded an opportunity of appearing before that authority and establishing their case. This request has been opposed by the learned Government Advocate and rightly so. The principle that applies to these proceedings is that production of documents and evidence is timely and is also required to be done at the requisite stage and if this is not done then the law proceeds on the assumption that such evidence is not in existent or not available. Apart from this, we are of the view that any such indulgence would dilate these proceedings in circles for years, and we also need to take into account the time factor and the load both on courts and on authorities if cases are indiscriminately remanded. Undoubtedly, the law does make an exception in those of the instances where very valid and cogent reasons are set out for the default or for those cases where the aggrieved party is able to demonstrate that but for the absence of appearance, the chances of success were almost certain and that it would really be a miscarriage of justice if the party is not afforded a second opportunity. None of those principles apply to the present case and consequently, we are of the view that no second opportunity can be afforded to the present appellants.*

> *7. Learned AGA is more than justified in contending that sub-section (3) of Sec.5 is a qualified provision to sub-section (1) and that in addition to what it requires, the Assessee has to comply with other requirement prescribed under Rule 12(10)(a) coupled with Form-H."*

7.3 Similarly, the statutory Form H would indicate that the goods were to be purchased by the exporter for the purpose of complying with an agreement or order of export. The said Form mandates disclosure of the agreement/order number and date, thereby signifying that the sale of goods by the petitioner in favour of the exporter must be in pursuance of, and for the purpose of complying with, such export agreement or order.

7.4 Learned counsel for the petitioner sought to rely upon a purchase contract stated to have been entered into on 01.01.2008. However, the said contract does not satisfy the requirements of Section 5(3) of the CST Act. The agreement is between the petitioner and M/s. Ammabhagwan Traders, the exporter, whereas Section 5(3) contemplates an agreement between the exporter and the foreign buyer, and the sale must be in furtherance of such agreement.

7.5 We are also not inclined to accept the purchase contract dated 01.01.2008 for an additional reason. The present proceedings pertain to the assessment year 2007–08, whereas the said contract, though dated 01.01.2008, has been notarised only on 20.05.2014. This discrepancy in dates raises serious doubt as to its genuineness and acceptability.

8. In the light of the observations made hereinabove, we find that the orders passed by the Tribunal, the First Appellate Authority, and the adjudicating authority are in conformity with the provisions of Section 5(3) of the CST Act. Further, the issue stands concluded in view of the judgment of this Court in ***M/s. Sandoz Private Limited*** (*supra*).

9. We do not find that any question of law arises for consideration in this revision petition. Accordingly, the revision petition stands ***dismissed***.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(K. V. ARAVIND)
JUDGE

MV
List No.: 1 Sl No.: 14