



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 13TH DAY OF OCTOBER, 2025
BEFORE
THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR
WRIT PETITION NO. 18888 OF 2025 (T-RES)

BETWEEN:

M/S. PRESTIGE NOTTINGHILL INVESTMENTS
A PARTNERSHIP CONCERN
REPRESENTED HEREIN BY ITS
AVP-TAXATION AND COMPANY
SECRETARY MANOJ KRISHNA J V,
AGED ABOUT 40 YEARS,
S/O VENKATARATHNAIAH SETTY D N,
HAVING ADDRESS AT FLAT 43113,
PRESTIGE FALCON CITY,
ANJANADRI LAYOUT,
KANAKAPURA ROAD,
NEAR KONANAKUNTE,
DODDAKALLASANDRA,
BENGALURU-560062.

...PETITIONER

(BY SRI. BHARAT BHAGWAN RAICHANDANI, ADV. AND
SRI J R RAAGHUL PIRAANESH, ADV.)

Digitally signed by
NANJUNDACHARI
Location: HIGH
COURT OF
KARNATAKA

AND:

1. THE UNION OF INDIA
REP. HEREIN BY THE SECRETARY
DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE GOVERNMENT OF INDIA,
NORTH BLOCK, NEW DELHI-110001.
2. STATE OF KARNATAKA
THROUGH THE PRINCIPAL SECRETARY,
FINANCE DEPARTMENT,
VIDHAN SOUDHA,
BENGALURU-560001



3. COMMERCIAL TAX OFFICER (AUDIT) -1.8,
DGSTO-1, OFFICE OF THE COMMERCIAL
TAX OFFICER, (AUDIT)-1.8,
DGSTO-1, 5TH FLOOR, BMTC BUILDING,
YESHWANTHPUR, BENGALURU 560022.

...RESPONDENTS

(BY SRI.MADANAN PILLAI, CGC FOR R1
SMT. JYOTI M MARADI, HCGP FOR R1 & R3)

THIS PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) QUASH THE ORDER-IN-ORIGINAL BEARING NO. CTO (AUDIT)-1.8/GST/DRC-7/ NO.40/2024-2025 DATED 20.09.2024 (ANNEXURE-A), AND THE RECTIFICATION REJECTION ORDER DATED 19.03.2025 (ANNEXURE-A1), BOTH PASSED BY RESPONDENT NO.3, ON THE GROUND THAT THE SAME ARE WITHOUT JURISDICTION, IN VIOLATION OF PRINCIPLES OF NATURAL JUSTICE, AND CONTRARY TO THE PROVISIONS OF THE CGST ACT AND ETC.

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

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

In this petition, the petitioner seeks following reliefs:

(a) Issue a writ of certiorari, or any other appropriate writ, order or direction, quashing the Order-in-Original bearing No.CTO(AUDIT)-1.8/GST/DRC-7/No.40/2024-2025 dated 20.09.2024 (Annexure-A) and the Rectification Rejection Order dated 19.03.2025 (Annexure-A1), both passed by Respondent



No.3, on the ground that the same are without jurisdiction, in violation of principles of natural justice and contrary to the provisions of CGST Act;

(b) Issue a writ of certiorari, or a writ or order or direction in the nature of writ of certiorari and set aside the impugned Order-in-Original vide No.CTO(AUDIT)-1.8/GST/DRC-7/No.40/2024-2025 bearing Reference No.ZD2909240482451 dated 20.09.2024 (Annexure-A) and the Rectification Rejection Order dated 19.03.2025 (Annexure-A1), both issued by Respondent No.3 passed by Respondent No.3 as bad in law.

(c) Issue a writ of certiorari, or a writ or order or direction in the nature of writ of certiorari and hold that the demand confirmed in the Order-in-Original vide No.CTO(AUDIT)-1.8/GST/DRC-7/No.40/2024-2025 bearing Reference No.ZD2909240482451 dated 20.09.2024 (Annexure-A) passed by Respondent No.3 in excess of the amount proposed in the SCN is in violation of Section



75(7) of the CGST Act and therefore without jurisdiction and null and void;

(d) Issue a writ of Mandamus, or a writ or order or direction in the nature of writ of mandamus and direct the Respondents to not to proceed further with the Impugned Orders.

(e) Issue any other direction or grant any other relief, as deemed fit in the facts and circumstances of this case, in the interest of justice.

(f) Issue a direction to provide for the cost of this petition.

2. Heard learned counsel for the petitioner and learned counsel for respondents and perused the material on record.

3. In addition to reiterating various contentions urged in the petition and referring to the material on record, learned counsel for the petitioner invited my attention to the show-cause notice at Annexure-D dated 28.05.2024, in order to point out that though the said show-cause



notice demanded a sum of Rs.2,49,63,816/- from the petitioner, to which the petitioner submitted reply, the respondents have proceeded to pass the impugned Order-in-Original dated 20.09.2024, confirming the demand in a sum of Rs.6,93,77,821/- which is illegal, arbitrary and contrary to the provisions of Section 75(7) of CGST/KGST Act, 2017. It is also submitted that though the petitioner submitted rectification application dated 30.09.2024 under Section 164 of the KGST Act, the respondents have erroneously rejected the said rectification application and as such, petitioner is before this Court, by way of the present writ petition.

4. Per contra, learned counsel for the first respondent and learned HCGP for respondent No.2 submit that there is no merit in the petition and the same is liable to be dismissed.

5. It would be necessary to extract Section 75(7) of KGST Act which reads as under:



"Sec.75(7):- *The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice."*

6. In this context, it is relevant to state that though respondents demanded only a sum of Rs.2,49,63,816/- in the show-cause notice dated 28.05.2024 and in the Order-in-Original, the respondents proceeded to confirm the demand for a sum of Rs.6,93,77,821/- which is contrary to the provisions contained in Section 75(7) of the KGST Act and consequently, I deem it just and proper to set aside the impugned order at Annexures-A and A1 and remit the matter back to respondent No.3 for reconsideration afresh, in accordance with law.

7. Accordingly, I pass the following:

ORDER

(i) The petition is hereby allowed.



(ii) The impugned order at Annexure-A dated 20.09.2024 and Annexure-A1 dated 19.03.2025 are hereby set aside.

(iii) The matter is remitted back to respondent No.3 for reconsideration afresh, in accordance with law.

(iv) The petitioner shall appear before respondent No.3 on 17.11.2025, without awaiting further notice from respondent No.3.

(v) Liberty is reserved in favour of the petitioner to submit additional replies, pleadings, documents etc., which shall be considered by respondent No.3 who shall provide sufficient and reasonable opportunity to the petitioner and proceed further in accordance with law, bearing in mind the provisions contained in Section 75(7) of KGST Act.

SD/-
(S.R.KRISHNA KUMAR)
JUDGE