



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF APRIL, 2025

BEFORE

THE HON'BLE MR JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 30991 OF 2024 (T-RES)

BETWEEN:

M/S SEEMA CATERERS
SITUATED AT 777
9TH MAN ROAD,
3RD BLOCK, 1ST STAGE
HBR LAYOUT, BENGALURU-560043
REPRESENTED BY ITS
PARTNER ALTAFULLA SHARIFF
AGE 55 YEARS
S/O MUNAWAR SHARIFF

...PETITIONER

(BY SRI. JAYAKUMAR S. PATIL, SENIOR ADV. FOR
SRI. MAHAMAD TAHIR A.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THE DEPARTMENT OF FINANCE
VIDHANA SOUDHA
BENGALURU-560001
REP. BY ITS SECRETARY
2. THE COMMERCIAL TAX OFFICER
OFFICE OF THE COMMERCIAL TAX OFFICER (AUDIT
AND RECOVERY)
SITUATED AT 1101
NARAYAN RAO ROAD
BANGARPET-563114



3. THE BANK MANAGER
CANARA BANK
BANGARPET BRANCH MAIN ROAD
BANGARPET-563114

...RESPONDENTS

(BY SRI. HEMAKUMAR K., ADVOCATE)

THIS WP IS FILED PRAYING TO-CALL FOR RELEVANT RECORDS PENDING ON THE FILE OF RESPONDENTS; QUASHING IMPUGNED ORDER OF ADJUDICATION DATED 30.03.2024 FOR THE TAX PERIOD APRIL 2018 TO MARCH 2019 VIDE FILE NUMBER JCCT.DGSTO-04/CTO (AUDIT AND RECOVERY) BANGARPET/ GST (73)/2690/2023-24/ ADJUDICATION ORDER ISSUED BY THE R-2 THE COMMERCIAL TAX OFFICER VIDE ANNEXURE-F BY TREATING IT AS UNJUST, UNFAIR AND ULTRAS VIRES; QUASHING IMPUGNED ORDER DATED 09.09.2024 VIDE FORM GST DRC-13 BEARING NUMBER CTO (A AND R) BANGARPET /97/2024-25 ISSUED BY THE R-2 THE COMMERCIAL TAX OFFICE VIDE ANNEXURE -H BY TREATING IT AS UNJUST, UNFAIR AND ULTRAS VIRES; QUASHING IMPUGNED ORDER DATED 24.10.2024 VIDE NOTICE U/S 79 OF THE KGST ACT 2017 BEARING NUMBER CTIO (A AND R) BPET/125/2024-25 ISSUED BY THE R-2 THE COMMERCIAL TAX OFFICE VIDE ANNEXURE -H1 BY TREATING IT AS UNJUST, UNFAIR AND ULTRAS VIRES ETC.

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



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

ORAL ORDER

1. In this writ petition, the petitioner seeks the following reliefs:

" (a) Call for relevant records pending on the file of respondents.

(b) Issue an order, direction or a Writ, in the nature of writ of certiorari by quashing impugned Order of Adjudication dated 30.03.2024 for the Tax period April 2018 to March 2019 vide File number JCCT / DGSTO-04 / CTO (Audit & Recovery) Bangarpet / GST (73) / 2690/2023-24 / Adjudication Order issued by the 2nd Respondent The Commercial Tax Officer vide Annexure - F by treating it as unjust, unfair and ultras

(c) Issue an order, direction or a Writ, in the nature of writ of certiorari by quashing impugned Order dated 09.09.2024 vide FORM GST DRC-13 bearing number CTO (A&R) Bangarpet /97/2024-25 issued by the 2nd Respondent-The Commercial Tax Officer vide Annexure - H by treating it as unjust, unfair and ultras vires.

(d) Issue an order, direction or a Writ, in the nature of writ of certiorari by quashing impugned Order dated 24.10.2024 vide Notice U/S.79 of the KGST Act 2017 bearing number



CTO (A&R) BPET/125/2024-25 issued by the 2nd Respondent The Commercial Tax Officer vide Annexure - H-1 by treating it as unjust, unfair and ultra vires.

(e) And also pass such other order/direction and further orders as may be deemed necessary on the facts and in the circumstances and probabilities of the case, in the interest of justice and equity. "

2. Heard Sri. Jayakumar S. Patil, learned Senior Counsel appearing for the petitioner and Sri. Hemakumar K., learned Additional Government Advocate for respondent Nos.1 and 2, and perused the material on record.

3. A perusal of the material on record would indicate that on 15.11.2023, the respondent No.2 issued Observation notice under section 65(6) of the KGST Act 2017, calling for explanation as to the difference/discrepancy between Form GSTR3B and Form GSTR1 as well as difference/discrepancy between Form GSTR3B and Form GSTR2A submitted by the petitioner. Pursuant to the same, on 30.12.2023 the respondent



issued show cause notice to the petitioner, who did not submit any reply to the same and consequently, the second respondent proceeded to pass the impugned Adjudication Order dated 30.03.2024 produced at Annexure-F to the petition, which is assailed in the present petition.

4. Learned Senior Counsel for the petitioner submits that due to *bona fide* reasons and unavoidable circumstances and sufficient cause, the petitioner could not submit his reply to the show cause notice as the show-cause notice was not served to the petitioner and the impugned *ex-parte* orders deserve to be quashed and therefore, the matter be remitted back to the second respondent for reconsideration afresh in accordance with law by providing an opportunity to the petitioner to submit a reply to the show cause notice along with relevant documents and pleadings etc.

5. Per contra, learned Additional Government Advocate appearing for the respondent Nos.1 and 2 would support



the impugned orders and submit that there is no merit in the petition and the same is liable to be dismissed, especially when the petitioner did not exercise his due diligence by participating in the impugned proceedings.

6. A perusal of the material on record including the impugned orders would indicate that it is an undisputed fact that the petitioner did not respond/reply to the show cause notice and the impugned *ex-parte* orders have been passed without hearing the petitioner. Under these circumstances, in view of the specific assertion on the part of the petitioner with regard to inability and omission to submit the reply to the show cause notice and participate in the proceedings was due to *bona fide* reasons, unavoidable circumstances and sufficient cause, by adopting a justice oriented approach and in order to provide one more opportunity to the petitioner, I deem it just and appropriate to set aside the impugned orders and remit the matter back to the respondent for



reconsideration afresh in accordance with law by issuing certain directions.

7. In the result, I pass the following:

ORDER

i) The Writ Petition is ***allowed***;

ii) The impugned order passed by respondent at Annexure F dated 30.03.2024 and Notices at Annexure H & Annexure H1, dated 09.09.2024 & 24.10.2024 respectively are hereby set aside;

iii) The matter is remitted back to the respondent for reconsideration afresh from the stage of the Petitioner submitting its reply to the show-cause notice dated 30.12.2023 in accordance with law.

iv) Liberty is reserved to the petitioner to submit pleadings, documents etc. which shall



be considered after providing sufficient and reasonable opportunity.

v) Respondent No.3 is directed to de-freeze the account of the petitioner forthwith, immediately upon receipt of the copy of this order.

**Sd/-
(S.R.KRISHNA KUMAR)
JUDGE**

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List No.: 1 Sl No.: 58