HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 35881 OF 2025 (T-RES)

BETWEEN:

1. SRI. DURGA METAL WORKS
9,1,4.4 BEM HIGH SCHOOL,
MANGALORE,
DAKSHINA KANNADA
KARNATAKA - 575 001
REP BY ITS PROPRIETOR
MR.SHAILESH
S/O.SURESH
RESIDING AT 10-8-1
POOJASHRI NILYA
ULLALA, MANGALORE
ULIYAKADAK- 575 020

... PETITIONER

(BY SRI. AKSHATHA SHETTY K., ADVOCATE)

AND:

1. ASSISTANT COMMISSIONER
OF COMMERCIAL TAXES,
LOCAL GOODS AND SERVICES TAX OFFICE,
27, MANGALORE- 575 001

... RESPONDENT

(BY SRI. HEMAKUMAR, AGA)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER OF ADJUDICATION DATED 14.12.2023 REFERENCE NO.ZD2912230376659 PASSED BY THE RESPONDENT, VIDE ANNEXURE-A 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

Petitioner has sought for setting aside of the order of adjudication at Annexure-A passed under Section 73(9) of the KGST/CGST Act.

2. It is submitted that the authority has quantified the demand without the benefit of any reply to the show cause notice by the petitioner. It is further submitted that the discrepancy as made out between output tax liability admitted in GSTR-3B and the output tax declared in GSTR-1, is a matter which the petitioner could demonstrate and reconcile and the petitioner has material to demonstrate the same. It is submitted that the lapse if any in not replying to the show cause notice is due to bonafide reasons.

3. Learned counsel for the revenue would submit that petitioner is solely responsible for passing of the ex-parte order.

4. Taking note that the order passed is in effect an ex-parte order and the stand of the petitioner that they have material to demonstrate and reconcile the declaration in GSTR-3B vis-à-vis output tax declared in GSTR-1, it would be appropriate to condone the lapse and reopen the proceedings and permit the petitioner to take stand on merits by way of reply to the show cause notice.

5. Accordingly, the order at Annexure-A is set aside. The matter is remitted to the stage of reply to the show cause notice. Petitioner is put on terms and is directed to pay 10% of the tax due within a period of 4 weeks from today. Needless to state, adjudication would be taken up after such payment of tax as ordered. Petitioner to appear before the respondent without further notice on 16.03.2026. All contentions are kept open. In

light of the submission that show cause notice is not issued, the revenue to communicate a fresh copy of show cause notice within 10 days from the date of receipt of certified copy of this order.

6. Accordingly, the petition is disposed of. In light of the disposal of the petition, I.A.1/2025 filed for dispensing with the production of certified copy of Annexure-B, is also disposed of as not calling for orders.

Sd/-
(S SUNIL DUTT YADAV)
JUDGE

VP