IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 25TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MRS JUSTICE K.S.HEMALEKHA

WRIT PETITION NO. 100290 OF 2026 (T-RES)

BETWEEN:

M/S RAJAPUR MINERALS
A SOLE PROPRIETORSHIP,
HAVING ITS OFFICE AT:
D NO. 8 AND 9, RAJAPUR INN 3RD FLOOR,
BEHIND MBT PETROL BUNK BELLARY ROAD,
JP NAGAR, HOSPET, KARNATAKA-582201,
REPRESENTED BY ITS SOLE PROPRIETOR,
MR. SATISH RAJAPUR, PROPRIETOR,
AGED ABOUT 50 YEARS,
S/O. R CHANDRASHEKAR,
HAVING RESIDENCE AT:
HOUSE NO. 57/22, WARD NO. 22,
BELLARY ROAD, JP NAGAR, HOSPET,
PO. HOSPET, BELLARY DISTRICT,
KARNATAKA-583201.

...PETITIONER

(BY SMT. LAKSHMI MENON, ADVOCATE AND
SRI. SHASHANK S. HEGDE, ADVOCATE)

AND:

1. THE DEPUTY COMMISSIONER OF
COMMERCIAL TAXES (AUDIT)-2,
BALLARI, HAVING ITS OFFICE AT
VANIJYA THERIGE BHAVAN,
2ND STAGE, 6TH MAIN,
RAGHAVENDRA COLONY,
ANANTAPURA ROAD, BALLARI,
KARNATAKA-583101.

2. THE JOINT COMMISSIONER OF
COMMERCIAL TAXES (APPEALS),
DAVANGERE, HAVING ITS OFFICE AT
VANIJYA THERIGE BHAVAN,

A BLOCK, DEVARAJA ARAS LAYOUT,
DAVANAGERE, KARNATAKA-577006.

3. THE JOINT COMMISSIONER OF
COMMERCIAL TAXES (ADMIN),
DAVANAGERE, HAVING ITS OFFICE AT
VANIJYA THERIGE BHAVANA, A BLOCK,
DEVARAJA ARAS LAYOUT,
DAVANAGERE, KARNATAKA-577006.

4. THE BRANCH MANAGER
STATE BANK OF INDIA,
COLLEGE ROAD, HOSPETE,
PARWAZ PLAZA, V.N COLLEGE ROAD,
HOSPET-583213.

5. M/S CLARIYA ENTERPRISES
HAVING ITS OFFICE AT
SY. NO. 372/C, DASHAMAPURA VILLAGE,
HAGARIBOMMANAHALLI,
BALLARI (BELLARY), KARNATAKA-583212.

...RESPONDENTS

(BY SRI. GANGADHAR J.M., AAG AND
SRI. PRAVEEN K.UPPAR, AGA FOR R1 TO R3;
SIR. GIRISH HULMANI, ADVOCATE FOR R4;
NOTICE TO R5 IS SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI, TO QUASH AND SET ASIDE THE IMPUGNED AUDIT REPORT ISSUED IN FORM GST ADT-02 DATED 13.12.2023 BEARING NO.DCCT(A)-2/BLY/GST ADT/2023-24/1-377 ISSUED BY THE RESPONDENT NO. 1 (ANNEXURE B); ISSUE A WRIT OF CERTIORARI, TO QUASH AND SET ASIDE THE IMPUGNED INTIMATION OF TAX ASCERTAINED IN FORM GST DRC-01A DATED 14.12.2023 BEARING NO. ZD291223034647A ISSUED BY THE RESPONDENT NO.1 (ANNEXURE C); AND ETC.

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

CORAM: THE HON'BLE MRS JUSTICE K.S.HEMALEKHA

ORAL ORDER

1. The petitioner has approached this Court seeking the following reliefs:

   I. *Issue a writ of Certiorari, to quash and set aside the impugned audit report issued in form GST ADT-02 dated 13.12.2023 bearing No.DCCT(A)-2/BLY/GST ADT/2023-24/1-377 issued by the Respondent No. 1 (ANNEXURE-B);*

   II. *Issue a writ of Certiorari, to quash and set aside the impugned intimation of tax ascertained in form GST DRC-01A dated 14.12.2023 bearing No. ZD291223034647A issued by the respondent No.1 (ANNEXURE-C);*

   III. *Issue a writ of Certiorari, to quash and set aside the impugned Show Cause notice issued by the Respondent No.1 dated 23.12.2023 bearing no. DCCT(A)-2/BLY/GST SCN/2023-24/T (ANNEXURE-D);*

   IV. *Issue a writ of Certiorari to quash and set aside the impugned summary to the show cause notice issued in FORM GST DRC-01 issued by the Respondent No.1 dated 23.12.2023 bearing reference No. ZD291223071105N (ANNEXURE - D1);*

   V. *Issue a writ of Certiorari, to quash and set aside the impugned order-in-original dated 20.03.2024 bearing no. DCCT (A)-2/BLY/GST ADJN/2023-*

24/T-, passed by the Respondent No.1 (ANNEXURE-E);

VI. Issue a writ of Certiorari to quash and set aside the impugned summary of the order issued in FORM GST DRC-07 dated 20.03.2024 bearing Reference No. ZD290324051245I (ANNEXURE - E1);

VII. Issue a writ of Certiorari, to quash and set aside the impugned proceedings/authorization passed under section 78 of the KGST Act, 2017 by the Respondent No.1, dated 20.03.2024 bearing No. DCCT(A)-2/BLY/GST ADJ/2023-24/T- (ANNEXURE - E2);

VIII. Issue a writ of Certiorari, to quash and set aside Order-In-Appeal dated 27.06.2025 bearing appeal order no. ZD2906251080985, passed by the Respondent No.2 (ANNEXURE - J);

IX. Issue a writ of certiorari, to quash and set aside the impugned garnishee notice in FORM GST DRC-13 bearing No. DCCT(A)-2/BLY/GST RECY/2025-26/T-549 dated 04.10.2025 issued by the Respondent No.1(ANNEXURE - K);

X. Issue a writ of Certiorari, to quash and set aside the impugned FORM DRC-09 dated 03.12.2025 bearing No. DCCT(A)-2/GST/BLY/2025-26/T-653 issued by the Respondent No.1 (ANNEXURE- L);

XI. Alternatively, remand the matter to the stage of hearing on the impugned Show Cause Notice issued by the respondent no. 1 dated 23.12.2023 bearing no. DCCT(A)-2/BLY/GST SCN/2023-24/T-

(ANNEXURE - D), keeping all contentions open and the remand proceedings to be conducted in accordance with law in a time-bound manner in such period as this Hon'ble court may deem fit and;

XII. Grant any other orders that this Hon'ble Court deems fit and proper in the interest of justice.

2. Heard the learned counsel appearing for the petitioner and the learned Addl. Government Advocate appearing for the respondents.

3. Learned counsel for the petitioner submits that, respondent No.1 – Deputy Commissioner of Commercial Taxes (Audit)-2, has conducted audit proceedings under Section 65(6) of the KGST Act, 2017, and the very same officer has issued the impugned show cause notice under Section 73(1) read with Section 50 and 122 of the KGST Act, 2017, and has passed the impugned order-in-original, such exercise is impermissible in law and gives rise to a reasonable apprehension of bias. It is submitted that

adjudication is vitiated by violation of principles of natural justice.

4. In support of her contention, reliance is placed on the decision of this Court in ***M/s.Presidency Builders and Developers Vs. The Deputy Commissioner of Commercial Taxes and Another***[1] (*M/s.Presidency Builders),* wherein in similar circumstances, where the audit report, show cause notice, and final order were issued by the same officer, the impugned order was set aside and the matter was remanded for fresh consideration.

5. *Per contra*, learned Addl. Government Advocate appearing for the respondents-State submits that, though audit report, show cause notice, and order-in-original were issued by the same officer, the proceedings were undertaken in different capacities as contemplated under the Act. It is contended that

[1] W.P.No.28539 of 2025 disposed of on 10.11.2025

there is no specific allegations of *mala fides* or perversity and that the principles of natural justice have been duly followed. Merely because the same officer issued the audit report, show cause notice, and passed the impugned order-in-original, the same cannot be set aside in the absence of any specific allegation of illegality or perversity in the order passed by respondent No.1 and the proceedings cannot be automatically vitiated.

6. This Court has carefully considered the rival submissions and perused the material on record.

7. It is not in dispute that respondent No.1 has:

    i. Conducted the audit proceedings,

    ii. Issued the audit report,

    iii. Issued the show cause notice and,

    iv. Passed the order-in-original confirming the demand.

While the statute may not expressly prohibit such exercise, the principles of natural justice required the adjudication must be free from reasonable apprehension of bias. As rightly contended by the learned counsel for the petitioner, that an officer who conducts audit and formulates audit objections may be said to have already framed a *prima facie* opinion on the issues, if the same officer thereafter adjudicates the very same allegations, it may give rise to reasonable apprehension that the decision making process is not entirely independent.

8. A Coordinate Bench of this Court, in an identical issue in ***M/s.Presidency Builders*** (supra), has set aside the recovery proceedings and remanded the matter for fresh consideration from the stage of reply to the show cause notice. In paragraph No.5 of the said judgment, it has been held as under:

> *"5. In the result, I pass the following:*
>
> *ORDER*

(i) *The petition is allowed.*

(ii) *The impugned order at Annexures-G1 and G2, both dated 23.12.2023 issued by respondent No.1 and recovery proceedings at Annexures-M1 and M2 are hereby set aside.*

(iii) *The Joint Commissioner for Commercial Taxes is directed to assign the matter to any person/any proper Officer other than respondent No.1, who has passed the impugned order.*

(iv) *The matter is remitted back to the concerned respondent for reconsideration afresh from the stage of submitting reply to the show cause notice and summary of show cause notice at Annexures-G1 and F2, both dated 15.07.2023, in accordance with law.*

(v) *Liberty is reserved in favour of the petitioner to raise all contentions including the contentions as regards audit report, which shall be considered by a proper officer, who shall proceed further, in accordance with law.*

(vi) *The petitioner shall appear before the concerned officer on 08.12.2025 without awaiting further notice from the respondent, failing which the present order shall stand recalled*

automatically, without further reference to the Bench and without further orders.

(vii) Liberty is reserved in favour of the petitioner to submit replies, responses, pleadings, documents etc., which shall be considered by the respondent, who shall provide sufficient and reasonable opportunity to the petitioner, hear him and proceed further, in accordance with law.

9. The respondent-State has not demonstrated any distinguishing factual or legal feature to take a different view. In view of the above, this Court is of the considered opinion that the order-in-original cannot be sustained and consequential recovery proceedings thereto.

10. Accordingly, this Court pass the following:

ORDER

i. The writ petition is ***allowed***.

ii. The impugned Order-in-Original dated 20.03.2024 passed by respondent No.1 (Annexure-E series) is hereby ***set aside.***

iii. Consequently, impugned garnishee notice dated 04.10.2025 (Annexure-K) and impugned Form DRC-09 dated 0312.2025 (Annexure-L) are also ***quashed***.

iv. The impugned order in appeal dated 27.06.2025 (Annexure-J) is also ***set aside.***

v. The matter is remitted to the Joint Commissioner of Commercial Tax (Administration)-respondent No.3, who shall assign the matter to the proper officer other than respondent No.1 for fresh adjudication under Section 73 of the KGST Act.

vi. The matter shall be reconsidered from the stage of the reply submitted by the petitioner to the show cause notice.

vii. Liberty is reserved to the petitioner to file additional reply, documents and written submission.

viii. The concerned officer shall afford reasonable opportunity of hearing and pass a reasoned order in accordance with law.

ix. The petitioner shall appear before respondent No.3 on **10.03.2026** without waiting for any further notice. Failure to appear on the said date, shall result in automatic recall of this order.

Sd/-
JUSTICE K.S.HEMALEKHA

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CT:VH
List No.: 1 Sl No.: 15