



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 15TH DAY OF JANUARY, 2025
BEFORE
THE HON'BLE MR JUSTICE S.G.PANDIT
WRIT PETITION NO. 34742 OF 2024 (T-RES)

BETWEEN:

M/S. SRI NANJUNDAPPA CONSTRUCTIONS
A PARTNERSHIP FIRM UNDER
THE INDIAN PARTNERSHIP ACT
OFFICE AT NO. 111/44/A
BHAGYALAKSHMI NILAYA MAIN ROAD,
KALLUGOPANAHALLI VILLAGE, BIDADI,
RAMANAGARA - 560 109
REPRESENTED BY ITS PARTNER
SRI NANJU
S/O LATE NANJUNDAPPA,
AGED ABOUT 46 YEARS

...PETITIONER

(BY SRI.BHAT GANAPATHY NARAYAN, ADVOCATE)

AND:

1. UNION OF INDIA
MINISTRY OF FINANCE,
REPRESENTED BY ITS SECRETARY
NORTH BLOCK, NEW DELHI - 110 001.
2. THE STATE OF KARNATAKA
REPRESENTED BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF FINANCE,
DR. B.R. AMBEDKAR VIDHI
BENGALURU - 560001.
3. THE COMMERCIAL TAX OFFICER (AUDIT) - 2.5
DGSTO-2, 1ST FLOOR, ROOM NO.37,





PIONEER PLAZA, BUILDING NO.642
NEAR GOPALAN MALL, R.R.NAGAR,
BENGALURU - 560098.

...RESPONDENTS

(BY SMT.SWATI L KAMAT, ADVOCATE FOR R1;
SRI.K.HEMAKUMAR, AGA FOR R2 & R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED SHOW CAUSE NOTICE DTD. 25.10.2024 BEARING SL.NO.CTO (AUDIT) 2.5/DRC-01A.14/2024-25 PASSED BY THE R-3 AS PER ANNEX-D.

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

CORAM: HON'BLE MR JUSTICE S.G.PANDIT

ORAL ORDER

Heard the learned counsel Sri.Ganapathi Narayana Bhat for petitioner, learned counsel Smt.Swathi L. Kamat for respondent No.1 and learned Additional Government Advocate Sri.K.Hemakumar for respondent Nos.2 and 3. Perused the writ petition papers.

2. Learned counsel Sri.Ganapathi Narayan Bhat for petitioner would submit that petitioner is before this Court questioning Annexure-D, intimation of tax issued under



Section 73(5) of the KGST/CGST Act, 2017, since the petitioner is not liable to pay tax on royalty.

3. Per contra, learned Additional Government Advocate Sri.K.Hemakumar would point out that writ petition is premature and Annexure-D, intimation under Section 73(5) of CGST Act, 2017 is to provide an opportunity to the petitioner to pay the ascertained tax along with applicable interest, failing to pay, show cause notice would be issued under Section 73(1) of KGST Act. Further, he invites attention of this Court to page 83 of the writ petition and submits that in case the petitioner intends to file any submission against the intimation of ascertainment of tax, it is open for the petitioner to submit his submission. Learned Additional Government Advocate would further submit that if the petitioner fails to pay the ascertained tax as intimated under Annexure-D, the Authority shall have to issue show cause notice under Section 73(1) and pass orders under Section 73(9) of the



Act and thereafter the Authority will proceed with demand and recovery proceedings.

4. Having heard the learned counsel appearing for the parties and on perusal of the writ petition papers along with the provisions of KGST Act, I am of the view that writ petition of the petitioner is too premature and the same is liable to be rejected at this stage.

5. A perusal of Annexure-D, intimation of tax ascertained under Section 73(5) of KGST Act, 2017 would reveal that it is only an intimation of ascertained tax with liberty to the petitioner to pay along with interest or to file his submission. Failing to pay the ascertained tax, petitioner would be issued further notice under Section 73(1) and thereafter the Competent Authority shall have to pass order under Section 73(9) of KGST Act. Further, intimation of tax ascertained at Annexure-D also provides an opportunity to file any submission of the petitioner against the said intimation itself.



6. Since no show cause notice under Section 73(1) of KGST Act is issued and no order in terms of Section 73(9) of KGST Act is passed, the present writ petition would be premature. Hence, writ petition stands rejected.

Sd/-
(S.G.PANDIT)
JUDGE

NC
CT - SN
List No.: 1 Sl No.: 25