



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

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

WRIT APPEAL NO. 615 OF 2025 (GM-RES)

BETWEEN:

1. STATE OF KARNATAKA
DEPARTMENT OF FINANCE
2ND FLOOR, VIDHANA SOUDHA
DR. AMBEDKAR VEEDHI
BENGALURU - 560 001
REPRESENTED BY ITS
ADDITIONAL CHIEF SECRETARY
2. THE EXECUTIVE ENGINEER
KARNATAKA NEERAVARI NIGAM LIMITED
SHIGGAON LIFT IRRIGATION DIVISION
No.12 B/3
WARD No.20
CHANDIKA LAYOUT
LAKKAMANAHALLI
DHARWAD - 580 004
3. THE EXECUTIVE ENGINEER
KARNATAKA NEERAVARI NIGAM LIMITED
KHALASA PROJECT DIVISION
KHANAPURA - 591 302





4. THE EXECUTIVE ENGINEER
KARNATAKA NEERAVARI NIGAM LIMITED
MRBCC DIVISION 4
NAVALAGUNDA
DHARWAD DISTRICT
DHARWAD - 582 208
5. THE EXECUTIVE ENGINEER
KARNATAKA NEERAVARI NIGAM LIMITED
DHANDAVATHI
RESERVOIR PROJECT
SHIKARIPURA
SHIVAMOGGA - 577 427
6. THE EXECUTIVE ENGINEER
NATIONAL HIGHWAY DIVISION
ASHOK NAGAR, URVA STORES
MANGALURU - 575 006.
7. THE EXECUTIVE ENGINEER
NATIONAL HIGHWAY DIVISION
VISHWESHWARA NAGAR
HUBLI - 580 021
8. THE EXECUTIVE ENGINEER
PROJECT IMPLEMENTATION DIVISION
MAASANAGI BUILDING
CHANDRAPATNA LAYOUT
HAVERI - 581 110
9. THE EXECUTIVE ENGINEER
PROJECT DIVISION
JAYANAGAR 1ST CROSS
DHARWAD - 580 001



10. THE EXECUTIVE ENGINEER
PMGSY PROJECT DIVISION
KARWAR
NETALKAR BUILDING
GROUND FLOOR
KARWAR - 581 306
11. THE EXECUTIVE ENGINEER
PWP AND IWTD DIVISION
HAVERI - 581 110
12. THE EXECUTIVE ENGINEER
PWP AND IWTD
SIRSI - 581 401
13. THE EXECUTIVE ENGINEER
PWP AND IWTD
UDUPI DIVISION
UDUPI - 576 101
14. THE EXECUTIVE ENGINEER
PROJECT DIVISION
PRE DEPARTMENT
UDUPI - 576 103
15. THE EXECUTIVE ENGINEER
PROJECT DIVISION
GADAG - 582 101
16. THE EXECUTIVE ENGINEER
PROJECT IMPLEMENTATION DIVISION
HAVERI - 581 110



17. THE EXECUTIVE ENGINEER
MINOR IRRIGATION DEPARTMENT
MANGALURU - 574 142
18. THE EXECUTIVE ENGINEER
PANCHAYATHRAJ
ENGINEERING DEPARTMENT
UDUPI - 576 101
19. THE EXECUTIVE ENGINEER
NATIONAL HIGHWAY DIVISION
SHIVAMOGGA - 577 201

...APPELLANTS

(BY SRI ADITYA VIKRAM BHAT, AGA)

AND:

1. UNIQUE CONSTRUCTIONS
A PARTNERSHIP FIRM
HAVING ITS OFFICE AT
AASHU, GOPALADI ROAD
ANKADAKATTE
KOTESHWARA POST
KUNDAPUR - 576 222
(REPRESENTED BY ITS
MANAGING PARTNER
CHANDRASHEKAR SHETTY)
2. SRI M. DINESH HEGDE
AGED 55 YEARS
SON OF JAYARAMA BRAHMAVARA HEGDE
JAYARATHNA HOUSE
MOLAHALLI POST
KUNDAPURA TALUK
UDUPI DISTRICT - 576 222



3. SRI K SADANANDA SHETTY
AGED 65 YEARS
SON OF B. JAGANNATHA SHETTY
KAVERI NILAYA
KEDUR VILLAGE AND POST
KUNDAPUR TALUK
UDUPI DISTRICT - 576 222
4. SRI VASANTH R HEGDE
AGED 70 YEARS
SON OF RAJEEV HEGDE
RESIDING AT SRI DURGA
NANA SAHEB ROAD
KUNDAPURA - 576 201
5. SRI JEEVAN SHETTY BAIKADY
AGED 51 YEARS
SON OF LATE BHOJA SHETTY
RESIDING AT BHOMIKA
HEROOR, BRAHMAVAR
UDUPI TALUK AND DIST - 576 213

...RESPONDENTS

(BY SRI. NAVEEN G.S., ADVOCATE FOR R-1 TO 4
[IN R/O. R-4 VK NOT FILED])

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET-ASIDE THE ORDER DATED 25/07/2024 IN W.P. NO.27637/2023 (GM-RES) PASSED BY THE LEARNED SINGLE JUDGE OF THIS HON'BLE COURT AND DISMISS THE WRIT PETITIONS & ETC.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:



CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellants have filed the present appeal impugning the order dated 25.07.2024 passed by the learned Single Judge of this Court in WP.No.27637/2023 (GM-RES) **[impugned order]**. Respondent Nos.1 to 5 **[writ petitioners]** had filed the said writ petition, *inter alia*, praying as under:

“(a) Issue a writ or such other order in the nature of mandamus directing the respondents to refund the differential GST amount paid by the Petitioners for the works executed by each of the Petitioners respectively, as per the representations dated 06.07.2023, 07.07.2023, 11.07.2023, 17.07.2023 etc., given by the Petitioners-Contractors to respective Respondent-employers (as per the abstract Annexed) and produced at annexure-B, B-1 to B-29.

(b) Issue a writ or such other order directing the respondent No.1 – State Govt, to issue a circular/policy to address the issue of payment of GST on works contract which are executed under VAT regime wherein, GST is not paid by the Respondent-Employers but is levied and paid by the petitioner-Contractors to the GST department.

c) pass such other orders as may be deemed appropriate under the circumstances of the case, in the ends of justice.”



2. The writ petitioners state that they were registered under the Karnataka Value Added Tax (KVAT), 2003 and had obtained GST registration after the rollout of the Goods and Services Tax [**GST**] regime with effect from 01.07.2017.

3. The writ petitioners claimed that they had entered into works contracts/composite supply contracts with the appellants prior to the rollout of the GST regime on 01.07.2017 and thereafter. They claim that the contracts in question could be classified in three categories – Category A where tenders were called and agreements were entered prior to 01.07.2017; during VAT regime at the then prevailing Schedule of Rates [**SR**]; Category B where tenders were called prior to 01.07.2017 but the agreements were entered on or after the said date but with the old SR; and Category C where the tenders were invited after 01.07.2017 but the contacts were entered into under the SR prevailing prior to 01.07.2017.

4. Although copies of the contracts were not produced, the writ petitioners had produced copies of the extracts of some agreements. The agreements expressly provided that the



rates quoted by the contractors shall be deemed to be “inclusive of sales and other taxes”.

5. The writ petitioners claimed that since the rates quoted by them were on the basis of the Schedule of Rates prevailing prior to 01.07.2017, the same did not include the element of GST – Central GST, SGST and IGST – payable under the relevant GST Acts. Thus, the writ petitioners called upon their respective employers (the concerned appellants) **[the Employers]** with whom they had entered into contracts, to reimburse the GST at the rate of 12% and 18%. They claimed that with the Goods and Services Tax Act coming into force on 01.07.2017, their tax liability had increased, and they were not liable to pay the incremental tax on account of the levy of GST. They claimed that the Employers were liable to reimburse them for the GST paid over and above the VAT liability.

6. The writ petition filed by the writ petitioners was allowed by the impugned order. The operative part of the impugned order reads as under:

"i. The petition is allowed and disposed of in terms of the order passed by this Court in the



case of Sri. Chandrashekaraiah and others Vs. The State of Karnataka - W.P.No.9721/2019 and connected cases dated 11.04.2023.

ii. The concerned respondents are hereby directed to reimburse GST amount as indicated in the representations at Annexures – B to B29 back to the petitioner, within a period of six weeks from the date of receipt of a copy of this order."

7. As is apparent from the above, the writ petition was allowed following the earlier decision in the case of **Sri. Chandrashekaraiah and others V. The State of Karnataka**¹ (WP.No.9721/2019 and other connected cases decided on 11.04.2023)

8. It is thus relevant to refer to the operative part of the decision in **Sri. Chandrashekaraiah** (supra). The same is set out below:

"20. In the result, I pass the following:-

ORDER

- (i) Petitions are hereby disposed of.
- (ii) The Respondents-State and other Govt agencies / Respondents who have entered into works contract with the Petitioners are issued the following directions / guidelines:-

¹ NC: 2023:KHC:15431



- (a) Calculate the works executed pre-GST (prior to 01.07.2017) under KVAT regime and payments received by the Petitioners.
- (b) The payments received by the Petitioners pre-GST for such of the works executed before 01.07.2017 are to be assessed under KVAT tax regime – either under COT or VAT scheme as applicable.
- (c) Calculate the balance works to be completed or completed after 01.07.2017, in the original contract.
- (d) Derive the rate of materials, KVAT items required or used to complete the balance works.
- (e) Deduct the "KVAT" amount from those materials and the service tax, if applicable.
- (f) Add the applicable "GST" on those items.
- (g) Input Credit on the materials is to be arrived at and be set off as against the output GST, for those assessed under regular VAT.
- (h) Further, the "tax difference" should be calculated on such balance works executed or to be executed after 01.07.2017 separately.
- (i) Based on the result obtained on calculation of the tax difference on the contract value, concerned department/authority has to decide whether agreement needs to be changed or not.
- (j) A supplementary agreement may be signed with the Petitioners for the revised GST-inclusive work value for the Balance Work completed or to be completed as determined above and in case the revised GST-inclusive work value for the Balance Work, completed or to be completed after 01.07.2017, is more than the original agreement work value, the Petitioners are to be paid /reimbursed, as the case may be, the differential tax amount by the concerned employer; so also, in case



payments for works completed pre-GST are made post GST, the concerned employer has to pay or reimburse, as the case may be, the differential tax amount, to the Petitioners.

(iii) Petitioners are directed to submit comprehensive representations to the respective employers/ Respondents within a period of 4 weeks from the date of receipt of a copy of this order, irrespective of whether they have completed the works pre-GST or post-GST or payments were received or yet to be received post-GST.

(iv) If such representations are submitted, the respective employers/Respondents are directed to consider and dispose of the same in the light of the aforesaid directions / guidelines as expeditiously as possible and at any rate within a period of 8 weeks from the date of submission of the representations.

(v) In view of the interim orders passed by this Court in the present petitions, such of the petitioners who had not filed their GST returns during the period after 01.07.2017 are permitted to file their returns / amended returns, pursuant to the calculation of the differential tax as per procedure above under GST regime, without insisting on interest or penalty or limitation.

(vi) The GST authorities are also directed not to take precipitative action against the Petitioners for a period of 6 months from the date of receipt of a copy of this order.

(vii) Liberty is reserved in favour of the petitioners to challenge any order / decision passed / taken by the respondents or the authorities, subsequent to this order and also take recourse to such remedies as available in law."



9. The learned counsel appearing for the appellants has confined the challenge to the impugned order on two fronts. First, it is submitted that the operative part of the order seeks to incorporate the directions issued in the case of **Sri. Chandrashekaraiah** (supra), which also includes a direction enabling the writ petitioners to file GST returns/ amended returns for the period after 01.07.2017 by calculating the differential tax in a manner as set out in the said order. Further, the interest, penalty and the period of limitation have also been waived. Second, it is submitted that the appellant No.1 is not liable to reimburse any amount to the writ petitioners, and the direction to the concerned respondents to do so must be read as confined to the Employer.

10. The dispute as to whether the writ petitioners would be entitled to reimbursement of incremental tax paid or payable by them on account of the levy of GST is strictly a matter between the writ petitioners and the Employers with whom they had entered into a contract. The contract between the writ petitioners and the employer would not alter the statutory scheme for the levy of GST. Thus, the liability of the writ



petitioners to pay Goods and Services Tax (whether under the Central Goods and Services Tax Act, 2017, State Goods and Services Tax Act, 2017 or the Integrated Goods and Services Tax Act, 2017) is required to be determined strictly in accordance with the provisions of the relevant statute. The question of the levy of GST, assessment, recovery, and enforcement is a matter of statutory prescription.

11. In view of the above, no directions could be issued permitting the filing of any revised returns contrary to the provisions of the statute. The plenary directions to waive the penalty, interest under the GST Acts or the limitation for filing returns/revised returns are also unsustainable.

12. As noted above, the dispute raised was only whether the Employer were required to reimburse the writ petitioners for the incremental tax paid or payable by them. In the context of the dispute, no directions could be issued to the tax authorities regarding the levy, assessment, and collection of tax, penalty, or interest.



13. In the aforesaid view, the direction issued to the respondents to reimburse the tax is required to be construed as a direction only to the concerned Employer and not to the tax authorities.

14. Thus, the impugned order to the extent of any directions issued to the tax authorities/State is set aside. The appeal is disposed of in the aforesaid terms.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(K.S. HEMALEKHA)
JUDGE**

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List No.: 2 Sl No.: 21