



IN THE HIGH COURT OF KARNATAKA,

DHARWAD BENCH

DATED THIS THE 12TH DAY OF JUNE, 2025

BEFORE

THE HON'BLE MS. JUSTICE JYOTI MULIMANI

WRIT PETITION NO. 104602 OF 2023 (T-RES)

BETWEEN:

M/S. MATAJI INDUSTRIES,
SURVEY NO.217, PLOT NO.39,
KIADB, ALIYABAD, VIJAYAPUR-586 101
(REPRESENTED BY ITS PROP.
SHRI BHARAT SOLANKI, AGE: 31 YEARS)

... PETITIONER

(BY SRI.PRAMOD S.YADAWAD., ADVOCATE)

AND:

1. JOINT COMMISSIONER OF
COMMERCIAL TAXES (APPEALS),
BELAGAVI DIV. 5TH FLOOR, VTK BUILDING,
CLUB ROAD, BELAGAVI-590 001.

2. THE ASSISTANT COMMISSIONER
OF COMMERCIAL TAXES (ENFORCEMENT)
IST ROAD, HUDA OFFICE BUILDING,
HOSPETE-583 201.

... RESPONDENTS

(BY SRI.GANGADHAR.J.M., AAG)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA, SEEKING CERTAIN
RELIEFS.

THIS WRIT PETITION HAVING BEEN HEARD AND
RESERVED FOR ORDERS AT DHARWAD BENCH, LISTED FOR





PRONOUNCEMENT OF ORDER, THIS DAY, SITTING AT BENGALURU BENCH, THROUGH VIDEO CONFERENCING, AN ORDER IS MADE AS UNDER:

CAV ORDER

Sri.Pramod S.Yadawad., counsel for the petitioner and Sri.Gangadhar.J.M., AAG for the respondents have appeared in person.

2. The short facts are as follows.

The petitioner – M/s. Mataji Industries is registered under the GST Act, 2017, and GSTIN: 29AYTPK8958N1ZZ. It is engaged in the supply of Dry Grapes. The conveyance bearing No.KA-28-C-9782 carrying Dry Grapes from Vijayapur to Coimbatore (TN) was intercepted by the second respondent on 04.07.2021 at Vanagiri Toll Plaza, Kustagi, Karnataka. The person in charge of the conveyance tendered the Tax Invoice and E-way Bill. On verification of the tendered documents, the Commercial Taxes Department suspected the movement of Copra from Vijayapura to Coimbatore. The Tax Department obtained a statement from the person in charge of the goods vehicle on 04.07.2021 in the Form GST MOV-01 and recorded the statement in a separate sheet. The physical verification was



conducted on 05.07.2021 in the presence of a person in charge of the conveyance, by mentioning the description of the goods, quality-wise and quantity-wise. As per the physical verification, no single piece of copra was found in the goods vehicle; however, 3010 kgs of dry grapes were found. Contending that there is a mismatch of goods under transport and the description of goods mentioned in the tax invoice, the Assistant Commissioner of Commercial Taxes (Enforcement), Hosapete, vide order dated 10.07.2021 passed the order of confiscation of Goods and Conveyance and a demand for Tax of Rs.12,498/-, penalty of Rs.12,498/- and fine of Rs.2,65,237/- was made under the SGST Act, 2017 and tax for Rs.12,498/-, penalty of Rs.12,498/- and fine of Rs.2,65,237/- under CGST Act, 2017. Aggrieved by the order, the petitioner preferred a statutory appeal in Appeal No.APL/GST-30/21-22 and the Joint Commissioner of Commercial Taxes (Appeals), Belgaum, vide order dated 23.08.2022, dismissed the appeal. Under these circumstances, the petitioner has filed the Writ Petition under Articles 226 & 227 of the Constitution of India on several grounds as set out in the memorandum of Writ Petition.



3. Counsel for the respective parties urged several contentions. Heard the arguments and perused the writ papers with the utmost care.

4. The short point that requires consideration is whether the authorities are justified in their actions.

5. The issue relates to the tax demand, penalty levied, and fine for the alleged mismatch of goods. As we all know, GST, or Goods and Services Tax, is an indirect tax imposed on the supply of goods and services. In the present case, the conveyance was intercepted on the Fourth day of July 2021, and upon verification of the tendered documents by the person in charge, the authorities suspected the movement of the goods, i.e., Copra from Vijayapura to Coimbatore. However, on verification, it was found that there were no Copras in the vehicle.

The petitioner strongly objected to the illegal action of the tax authorities. It is urged on behalf of the petitioner that there was a typographical error, and there was no intent to evade any amount of tax. On the other hand, the Government specifically contended that there is a mismatch of the goods



and that the petitioner has intentionally evaded the tax liability, and thus, the Government sought to justify its actions against the petitioner. AAG in presenting his arguments strenuously urged that it is the case of Section 130, and the State Government has the power to confiscate the goods. I have considered the specific contentions. As already noted above, the issue relates to a mismatch of the goods, hence, this Court directed the HCGP to secure the original records from the department concerned and the records were secured by the HCGP. I have perused the original records with utmost care and directed the HCGP to furnish the true copies by filing a memo. Accordingly, the Government has done the needful. The tax invoice is furnished along with the Writ Petition, and the same is marked as Annexure-D. It contains a tabular column. There are six descriptions of goods, and the controversy is about the fourth item. At serial number four, it is shown as Copra weighing 8,50,000 g / 850 kg. In the E-way bill, it has been mentioned as dry grapes. The petitioner has paid the requisite tax on all the goods. Hence, the tax authorities ought to have considered whether the petitioner has evaded the tax liability.



Except for quoting the Sections, the impugned orders do not provide any reasons.

The mistake was merely a clerical error, and there was no intention to evade tax. They presented supporting documents, including the tax invoice, packing list, and bill of entry, which indicated that all necessary duties and taxes had been paid.

The burden of proof lies on the petitioner in certain cases, but when the error is a typographical or clerical one, the initial burden of proof is on the tax authorities to demonstrate an intention to evade tax. In this case, the department failed to establish such intent and did not discredit the documents provided by the petitioner. Furthermore, there is a tabular column in the order passed by the Joint Commissioner of Commercial Taxes (Appeals). There are certain discrepancies in mentioning the quantity of the grapes in the table. The first respondent has just confirmed the order passed by the original authority. As already noted above, there was no evasion of tax by the petitioner. However, the Original Authority and the Appellate Authority went ahead with the matter and rejected the claim of the petitioner. I may venture to say that the both



the authorities have failed to have regard to the relevant considerations and disregarded relevant matters.

6. The Writ of Certiorari is ordered. The order dated:23.08.2022 passed by the first respondent in Appeal No.APL/GST-30/2021-22 vide Annexure-A and the order dated:10.07.2021 passed by the second respondent in order No.ACCT(ENF)/HPT/MOV-11/2021-22/109 vide Annexure-B are quashed. The authority concerned is hereby directed to refund the amount paid by the petitioner.

7. Resultantly, the Writ Petition is ***allowed***.

Sd/-
(JYOTI MULIMANI)
JUDGE

MRP
List No.: 19 Sl No.: 1