IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 35021 OF 2025 (T-RES)

BETWEEN:

M/S. ABHIMAANI STRUCTURES
AND ENGINEERING PRIVATE LIMITED
REGISTERED UNDER THE COMPANIES ACT, 2013
HAVING ADDRESS AT NO. 2/4,
4TH FLOOR, DR. RAJKUMAR ROAD,
RAJAJINAGAR, BENGALURU - 560 010,
REPRESENTED BY ITS MANAGING DIRECTOR,
MR. PURUSHOTTAM VENKATESH, AGED 46 YEARS

ALSO AT 104, SREENIDHI, 14D CROSS,
2ND STAGE, 2ND PHASE,
WEST OF CHORD ROAD,
MAHALAKSHMIPURAM LAYOUT,
BENGALURU - 560 086.

...PETITIONER

(BY SRI. SANDEEPANI A. NEGLUR, ADVOCATE FOR
SRI. SANDEEP HUILGOL, ADVOCATE)

AND:

1. THE SUPERINTENDENT OF CENTRAL TAX
   (AWD-2), BENGALURU TTMC,
   BMTC BUILDING, KANAKAPURA ROAD,
   BANASHANKARI, BENGALURU - 560 070.

2. THE CENTRAL BOARD OF INDIRECT
   TAXES AND CUSTOMS,
   REPRESENTED HEREIN BY ITS CHAIRMAN,

DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE, NORTH BLOCK,
NEW DELHI - 110 001.

...RESPONDENTS

(BY SRI. JEEVAN J. NEERALGI, ADVOCATE FOR R1 AND R2)

THIS WP IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO I. QUASH THE IMPUGNED ORDER DATED 15.11.2023 BEARING NO. BEARING NO. 17/2023-24/GST/WD2 PASSED BY THE 1ST RESPONDENT UNDER SECTION 73(9) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 FOR THE TAX PERIOD 2017-18 (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.R.KRISHNA KUMAR

ORAL ORDER

In this petition, petitioner seeks the following reliefs:

" The Petitioner, therefore, most humbly prays that this Hon'ble Court may kindly be pleased to issue a writ, order or direction to:

i. Quash the impugned Order dated 15.11.2023 bearing no. bearing no. 17/2023-24/GST/WD2 passed by the 1st Respondent under Section 73(9) of the Central Goods and Services Tax Act, 2017 for the Tax Period 2017-18 (Annexure 'A');

ii. Quash the impugned Summary of the Order in Form GST DRC 07 dated 17.11.2023 bearing reference No. ZD291123023682L, passed by the 1st Respondent under Section 73 of the Central Goods and Services Tax Act, 2017 for the tax period 2017-18 (Annexure 'A-1');

iii. Quash the impugned Letter dated 14.10.2025 bearing letter no. GEXCOM/SOR/5572/2022-CGST-RANGE-A-WEST-DIV-2-COMMRTE-BENGALURU(W), issued by the 1st Respondent to the Petitioner (Annexure 'G');

iv. Pass such other orders or directions as this Hon'ble Court may deem fit in the interest of justice and equity."

2. Heard learned counsel for the petitioner, learned counsel for the respondents and perused the entire material on record.

3. Learned counsel for the petitioner submits that pursuant to the show cause notice dated 18.01.2023, the petitioner submitted a reply, pursuant to which the first respondent passed the impugned order dated 15.11.2023 without considering the Circular dated 27.12.2023 at Annexure-D which is applicable to the facts of the instant case and as such, in the light of the judgment of this Court in the case of ***R.S.Marketing and Logistics (P) Ltd., v. Commercial Tax Officer**, **(2024) 164 taxmann.com 9 (Karnataka)***, the impugned order deserves to be set aside and the matter be remitted back to the first

respondent for reconsideration afresh, in accordance with law.

4. Per contra, learned counsel for the respondents would support the impugned order and submit that there is no merit in the petition and the same is liable to be dismissed.

5. In ***R.S.Marketing and Logistics (P) Ltd., v. Commercial Tax Officer**, **(2024) 164 taxmann.com 9 (Karnataka)***, has held as under:

> *"Petitioner has filed the present petition seeking for setting aside of the order of adjudication bearing Reference No. CTO/LGSTO-51/LR/D&R-04/2023-24 dated 02.05.2023 passed by the respondent, copy of which is produced at Annexure-A.*
>
> *2. It is the case of the petitioner that there were certain discrepancies between the ITC claimed as per GSTR-3B and GSTR 2A and noticing such discrepancies, the Authority has adjudicated and directed excess claim of ITC to be reversed.*
>
> *3. It is the case of the petitioner that they were not given sufficient opportunity to explain the discrepancies. However, it is submitted that irrespective of the stand taken by the assessee, in light of the Circular No.183/15/2022-GST dated 27.12.2022 issued by the Central Board of Indirect Taxes and Customs, GST Policy Wing, wherever there is discrepancy in GSTR-3B and GSTR-2A,*

procedure is prescribed and in terms of the said procedure, the adjudicating authority ought to have followed the said procedure and non-following of such procedure has caused prejudice and accordingly, it is submitted that the matter may be remitted back for fresh consideration to the Authority, taking note of the Circular referred to above.

4. Sri. K. Hemakumar, learned Additional Government Advocate appearing for the Revenue submits that despite the reasonable opportunity being granted, the same has not been availed as is clear from the impugned order. It is further submitted that insofar as the Circular relied upon by the petitioner, the same was not relied upon in the adjudication proceedings.

5.Heard both sides.

6. For the limited purpose of the present matter, it is to be noticed that the table enclosed in the adjudication order would indicate that there is discrepancy between the ITC claimed as per GSTR-3B and GSTR-2A. The Authority has disallowed such claim only on the ground of discrepancy. It must be noticed that Circular No.183/15/2022-GST dated 27.12.2022 is made applicable specifically with respect to the financial year 2017-18 as is the case herein. It is further to be noticed that where the difference of ITC claimed is less than Rs.5,00,000/-, procedure is prescribed in Paragraph No. 4.1.2. Further directions are also made out at paragraph No. 4. It is clear as per Paragraph No. 6 of the Circular that the procedure to be followed is as regards all matters pending for adjudication as regards the financial year 2017-18 and 2018-19. If that were to be so, the adjudicating authority ought to have taken note of the Circular irrespective of whether the petitioner had raised such contention

7. Accordingly, this Court is of the prima facie view that the Circular is applicable to the present facts and on such ground, the adjudication order is set aside. Insofar as the contention of counsel for revenue that the applicability of the circular may also depend on the facts of the case, the said aspect is left open to be decided upon remand. The order of sending the matter back to the authority is being passed also keeping in mind the request of the petitioner to be given one more opportunity to put forth their case before the Authority.

8. Accordingly, the order at Annexure-A is set aside. The matter is remitted back for fresh consideration in terms of the observations made above. By virtue of setting aside of the adjudication order, petitioner is given another opportunity to participate in the proceedings. The petitioner who has been granted an opportunity of being heard once again, is to make an additional deposit of 10% of the tax amount as determined in the adjudication order dated 02.05.2023.

9. Accordingly, the petition is disposed off."

6. Under these circumstances, perusal of the impugned order will indicate that aforesaid Circular dated 27.12.2022 has not been considered by the first respondent and consequently, I am of the view that impugned orders deserve to be set aside and matter is remitted back to the first respondent for reconsideration afresh in accordance with law.

7. In the result, I pass the following:

ORDER

(i) The petition is hereby ***allowed***.

(ii) Impugned orders/Letter at Annexures A, A-1 and G dated 15.11.2023 17.11.2023 and 14.10.2025 respectively are hereby set aside.

(iii) Matter is remitted back to respondent No.1 for reconsideration afresh in accordance with law bearing in mind the Circular dated 27.12.2023.

(iv) Liberty is reserved in favour of the petitioner to submit additional pleadings, documents, etc., to the respondent, who shall consider the same and proceed further in accordance with law.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

BSV/List No.: 2 Sl No.: 9