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Audit Officer Cannot pass Assessment Order

The Hon'ble Karnataka High Court in *M/s. Sumukha Ventures v. Joint Commissioner of Commercial Taxes (Admn.) [W.P. No. 7772 of 2026 dated April 24, 2026]* set aside the Order-in-Original passed by the Deputy Commissioner of Commercial Taxes (Audit) and remanded the matter back, holding that the issue of the same officer who conducted the audit proceedings subsequently passing the adjudication order raises serious questions of natural justice and requires prior determination of jurisdiction before merits can be examined.

Facts:

M/s. Sumukha Ventures, a partnership firm based in Bengaluru, was subjected to proceedings initiated both by the Audit Authority (Respondent No. 2 – Deputy Commissioner of Commercial Taxes, Audit-3.7) and the Enforcement Authority (Respondents No. 3 & 4). A Show Cause Notice dated September 30, 2025, bearing reference No. ZD290925221988K, was issued in Form GST DRC-01 by the Audit Authority. Thereafter, the Order-in-Original (Annexure-B) was passed by the very same officer who had conducted the audit proceedings. The petitioner filed a Writ Petition under Articles 226 and 227 of the Constitution of India before the Karnataka High Court challenging both the Show Cause Notice and the Order-in-Original.

Issues:

Whether the same officer who conducted the audit proceedings under the GST regime is competent to subsequently pass the Order-in-Original in the adjudication proceedings arising out of such audit, or whether such an action amounts to a violation of the principles of natural justice warranting interference by the High Court under Articles 226 and 227 of the Constitution of India?

Held:

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The Hon'ble Karnataka High Court in **W.P. No. 7772 of 2026** held as under:

- **Observed that**, the Order-in-Original at Annexure-B was passed by the same officer who had conducted the audit proceedings, which raises a substantial issue of violation of principles of natural justice, since the officer having already expressed an opinion and recorded findings during audit would be influenced by such findings when adjudicating the matter.
- **Noted that**, the identical issue of the audit officer acting as the adjudicating authority is frequently raised by assesseees, and accordingly, the question of jurisdiction deserves proper adjudication by the appropriate authority before proceedings on merits are undertaken.
- **Held that**, the State Authorities are not necessarily bound by the circulars issued for proceedings under the Central Authority (Circular No. 31/05/2018-GST dated February 09, 2018, and Circular No. 169/01/2022-GST dated March 12, 2022), in the absence of a corresponding State notification. However, the question of jurisdiction must be addressed, and a specific finding must be recorded thereon before any adjudication on merits proceeds.
- **Directed that**, the petitioner shall raise the jurisdictional objection before Respondent No. 2 (Deputy Commissioner of Commercial Taxes, Audit-3.7), and upon such objection being raised, the authority may obtain necessary administrative orders from the Joint Commissioner of Commercial Taxes (Administration) – Respondent No. 1, who is the assigning authority.
- **Hence**, the Order-in-Original at Annexure-B was set aside, and the matter was remanded to Respondent No. 2 for reconsideration. No steps on merits are to be taken until a finding is recorded on the aspect of jurisdiction. All contentions of the petitioner on jurisdiction are kept open.

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Our Comments:

The present judgment is significant because the Hon'ble Karnataka High Court has recognized the recurring grievance raised by assesseees regarding adjudication by the very officer who conducted audit proceedings and formed prima facie conclusions. Though the Court did not conclusively decide whether such adjudication is per se impermissible, it expressly directed that the objection regarding jurisdiction and bias must first be adjudicated before proceedings on merits continue.

The judgment substantially proceeds on principles of natural justice, particularly the rule against bias embodied in the maxim nemo iudex in causa sua i.e., no person should be a judge in their own cause. The Court accepted that where an officer conducting audit has already formed conclusions, adjudication by the same officer may create apprehension of prejudgment.

A similar principle was considered by the Hon'ble Supreme Court in **Gullapalli Nageswara Rao v. Andhra Pradesh State Road Transport Corporation [1959 AIR 308]**, in a dispute involving the provisions of Motor Vehicles Act, 1939 the Supreme Court held that if one authority initiates proceedings and another decides them after hearing, without proper separation of functions, the proceedings may violate principles of natural justice because the authority deciding the matter may be influenced by prior conclusions. The Supreme Court emphasized institutional fairness and absence of bias.

Further, in **M/s NKAS Services Private Limited v. State of Jharkhand [W.P.(T) No. 2444 of 2021 order dated October 6, 2021]**, the Jharkhand High Court emphasized that adjudication under GST must strictly adhere to principles of natural justice and fair hearing requirements.

Relevant extract of the Circulars :

Circular No. 31/05/2018-GST dated February 09, 2018

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“Subject: Proper officer under sections 73 and 74 of the Central Goods and Services Tax Act, 2017 and under the Integrated Goods and Services Tax Act, 2017–reg.

The Board, vide Circular No. 1/1/2017-GST dated 26th June, 2017, assigned proper officers for provisions relating to registration and composition levy under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) and the rules made thereunder. Further, vide Circular No. 3/3/2017 - GST dated 5th July, 2017, the proper officers for provisions other than registration and composition under the CGST Act were assigned. In the latter Circular, the Deputy or Assistant Commissioner of Central Tax was assigned as the proper officer under sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of section 74 while the Superintendent of Central Tax was assigned as the proper officer under sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of section 73 of the CGST Act.

...”

Circular No. 169/01/2022-GST dated March 12, 2022

“Amendment to Circular No. 31/05/2018-GST, dated 9th February, 2018 on ‘Proper officer under sections 73 and 74 of the Central Goods and Services Tax Act, 2017 and under the Integrated Goods and Services Tax Act, 2017’–reg.

...

6. The Central Tax officers of Audit Commissionerates and Directorate General of Goods and Services Tax Intelligence (hereinafter referred to as “DGGI”) shall exercise the powers only to issue show cause notices. A show cause notice issued by them shall be adjudicated by the competent Central Tax officer of the executive Commissionerate in whose jurisdiction the noticee is registered when such cases pertain to jurisdiction of one executive Commissionerate of Central Tax only.

...”

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